

NATIONAL COMPANY LAW APPELLATE TRIBUNAL, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1079 of 2019

IN THE MATTER OF:

Damodar Valley Corporation

...Appellant

Vs

Divya Jyoti Sponge Iron Pvt. Ltd. & Ors.

....Respondent

Present:

For Appellant: Mr. Gopal Jain, Sr. Advocate with Ms. Madhumita Bhattacharjee and Ms. Srija Choudhury, Advocates.

For Respondent: Mr. Ranjan Kr. Pandey and Mr. Sandeep Bisht and Mr. Anuj Tiwari, Advocates.

ORDER

20.01.2020: In terms of Section 420 (3) of Companies Act, 2013, the Tribunal after passing an order is required to send a copy of every order passed under the said section to all the parties. The Adjudicating Authority (National Company Law Tribunal) also follows the said provision being binding. Referring to this, learned counsel for the Appellant submitted that free copy of the order was not supplied to the Appellant though earlier they filed review application and now the certified copy has been supplied on 28th August, 2019, where after appeal has been preferred on 14th October, 2019.

2. Section 61(2) of the Insolvency and Bankruptcy Code prescribes the limitation period for preferring an appeal as follows:-

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“61(2) Every appeal under sub-section (1) shall be filed within thirty days before the National Company Law Appellate Tribunal

Provided that the National Company Law Appellate Tribunal may allow an appeal to be filed after the expiry of said period of thirty days if it is satisfied that there was sufficient cause for not filing the appeal but such period shall not exceed fifteen days.”

3. In terms of the said provision, if we count from the date of issuance of certified copy i.e. 28th August, 2019, we find that the appeal has been filed beyond 30 days of the said order. This Appellate Tribunal is empowered to condone delay for a period not exceeding 15 days after expiry of the aforesaid period of 30 days, if it is satisfied that there is sufficient cause for not filing such appeal. Even if it is accepted that there was a sufficient cause in not preferring the appeal during period of vacation i.e. 2nd October, 2019 to 13th October, 2019, the delay having exceeded more than 15 days beyond 30 days, we hold that this appeal under Section 61 is not maintainable being barred by limitation.

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4. However, we have noticed that the Respondent – Successful Resolution Applicant has offered a sum of Rs.1 Crore to ‘Damodar Valley Corporation’ which they are expected to pay in view of the undertaking given before this Appellate Tribunal.

5. The appeal stands disposed of with aforesaid observations. This order will not come in the way of ‘Damodar Valley Corporation’ to make further claim in terms of the Resolution Plan.

[Justice S. J. Mukhopadhaya]
Chairperson

[Justice Bansi Lal Bhat]
Member (Judicial)

am/sk