

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Company Appeal (AT) (Insolvency) No. 13 of 2023

&

I.A. No. 37 of 2023

IN THE MATTER OF:

Maharashtra State Electricity Distribution Company Ltd. ...Appellant

Versus

NRC Ltd. & Anr. ...Respondents

Present:

For Appellant: Advocate Soumik Ghosal, Advocate Akash Kotari,
Advocate Gaurav Singh, Advocate Neerav Shah.

For Respondent: Advocate Himanshu Satija, Advocate Geetika
Sharma

ORDER

17.01.2023: Heard Learned Counsel for the Appellant.

2. I.A. No. 37 of 2023 has been filed by the Appellant praying for condonation of 244 days delay in filing the Appeal.

3. The Appellant who is Maharashtra State Electricity Distribution Company Ltd. has filed this Appeal challenging the order of the Adjudicating Authority dated 13.03.2020 by which Resolution Plan was approved by the Adjudicating Authority.

4. Learned Counsel for the Appellant submits that Appellant came to know about the fact that the order need to be challenged only on 29.06.2022 when writ petition was filed by Successful Resolution Applicant seeking direction against the Appellant. It is submitted that Appellant was not aware that he has to challenge the Order by that time and thereafter this Appeal has been filed on 22nd November, 2022.

5. Learned Counsel for the Appellant has further relied on Section 17(1)(c) of the Limitation Act, 1963 to submit that Appellant is entitled to benefit of limitation.

6. Learned Counsel for the Appellant has relied on Judgement of Bombay High Court in Writ Petition No. 9906 of 2010 in the matter of “Namco Industries Pvt. Ltd. Vs. State of Maharashtra & Ors.”

7. We have considered the submissions of Learned Counsel for the Appellant and perused the record.

8. In the present case, the Order which has been challenged is dated 13.03.2020 and the Appeal has been filed in this Tribunal on 22nd November, 2022. The limitation for filing an Appeal is 30 days as per Section 61 of the I&B Code, 2016. The power of this tribunal for condoning the delay is of only 15 days as provided under Section 61(2) proviso of the Code.

9. The submission of Learned Counsel for the Appellant that he came to know to file an Appeal only on 29.06.2022 when Writ Petition was filed by the

Successful Resolution Applicant seeking direction against the Appellant is the reason which cannot clothe jurisdiction to this tribunal to condone the delay beyond 15 days.

10. Coming to the submission of Learned Counsel for the Appellant relating to Section 17(1)(c), Section 17(1)(c) provides as follows:

“17. Effect of fraud or mistake.—

(1) Where, in the case of any suit or application for which a period of limitation is prescribed by this Act,—

(a).....

(b).....

(c) the suit or application is for relief from the consequences of a mistake; or”

Section 17(1) deals with period of limitation in the case of any suit or application. On the face of it, Section 17(1)(c) does not come into play in an Appeal when limitation is prescribed for an Appeal. Therefore, we are in the present case, considering the limitation for filing an Appeal hence, Section 17(1)(c) has no application in the facts of the present case.

11. Coming to the judgement of Hon’ble Bombay High Court relied on by the Learned Counsel for the Appellant, the said judgement deals with Regulation 10 of the Maharashtra Electricity Regulatory Commission (Electricity Supply Code and Other Conditions of Supply) Regulations 2005. We are in the present case,

not concerned with such regulation hence reference of that judgement is not relevant for the present issues.

12. In view of the aforesaid, we are of the view that Application filed by the Appellant praying for condonation of delay of 244 days cannot be accepted. The Delay Condonation Application is dismissed. Consequently, the Memo of Appeal is rejected.

[Justice Ashok Bhushan]
Chairperson

[Barun Mitra]
Member (Technical)

Basant/nn