

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Un-numbered Company Appeal (AT) (Insolvency) No. /2017
under S. 61(1) of the Insolvency & Bankruptcy Code, 2016

In the matter of:

M/s. B.K.R. Hotels & Resorts Pvt. Ltd.

.... Appellant

Versus

Indian Bank

.... Respondent

Appearance: Ms. Anwesha Saha, Advocate for the Appellant

01.08.2017

The present appeal against the order dated 30.05.2017 of the Hon'ble NCLT, Chennai Bench in CP/472/(IB)/CB/2017 has been presented before the Registry on 21.07.2017. The appeal when scrutinised on 21.07.2017 was found to be defective and hence was returned for curing the defects with a direction to cure the defects within a period of 7 days, i.e. by 28.07.2017. Accordingly, the appeal was re-presented/re-submitted on 28.07.2017.

Sub-section (2) to section 61 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as the Code) says that an appeal under sub-section (1) of section 61 has to be filed before the NCLAT within a period of 30 days. The period of 30 days has to be calculated from the date of the impugned order.

As stated earlier, the impugned order is dated 30.05.2017. Therefore, the period of 30 days for filing the appeal expired on 29.06.2017, which was during the vacation. Hence as provided under section 4 of the Limitation Act, 1963, the appeal ought to have been filed on the date on which the Appellate Tribunal

reopened i.e. on 03.07.2017. However, the appeal is seen filed only on 28.07.2017 which is after a period of 25 days. Hence it is apparent that the appeal has been filed much beyond the period provided under sub-section (2) as well as the proviso to section 61 of the Code.

Heard the learned counsel for the appellant, who admits that there is a delay in filing the appeal. It is submitted that the appellant would be filing an application for condonation of delay in filing the appeal and that it would be filed during the course of the day.

Adjourned to 3rd August 2017.

(C.S. Sudha)
Registrar