

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Un-numbered Company Appeal (AT) (Insolvency) No. /2018
(F.No.20/03/2018/ NCLAT/UR/188)

In the matter of:

M/s ANG Industries Ltd.

.... Appellant

Versus

Shah Brothers Ispat Pvt. Ltd. & Ors.

.... Respondent

Appearance: Shri Ishaan Madaan, Advocate for the Appellant.

26.03.2018

The aforesaid Appeal under Section 61 of the I&B Code, 2016 (hereinafter referred to as the Code) is against the order dated 16.02.2018 in (IB)-292(ND)2017 of the Hon'ble NCLT, New Delhi Bench.

2. The Appeal is seen presented before the Registry under Rule 22 on 20.03.2018. The Appeal when scrutinised on 21.03.2018 was found to be defective and hence, on the same day the Appellant was informed of the defects with a direction to cure them within a period of seven days. The Appeal was thereafter presented on 22.03.2018 stating that all the defects have been cured. However, it is reported that defect no.4 referred to in the defects sheet has not been cured and hence the matter has been placed before me for appropriate orders.

3. Defect no.4 raised is that the appeal is barred by limitation and therefore, an application for condonation of delay is required. The certified copy of the impugned order dated 16.02.2018 produced is a paid copy. Therefore, the office computed the period of limitation from the next day of the order, i.e., from 17.02.2018 and when so computed the period of limitation of 30 days after excluding one day taken for obtaining the certified copy of the impugned order, would expire on 19.03.2018. This stand of the scrutiny Section is not agreed to by the counsel for the Appellant,

who contends that the original of the free certified copy of the impugned order issued on 19.02.2018 has been produced before the NCLT on 28.02.2018 in an application seeking rectification of the order. The xerox copy of the said order is placed at pages 39 to 42 of the appeal paper book. Therefore, according to the Appellant 20.02.2018 has to be taken as the starting point of limitation and when so computed the period of 30 days would expire on 21.03.2018. As the Appeal has been presented under rule 22 on 20.03.2018, the argument is that the Appeal is within the period of limitation.

4. In the aforesaid circumstance, the Appeal is taken to have been filed within the period of limitation.

List before the Hon'ble Appellate Tribunal on 27.03.2018.

(C.S. Sudha)
Registrar