

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

IA No. 1106/2025

IN

Company Appeal (AT) (CH) (Ins) No.371/2025

IA No. 1107/2025

In the matter of:

MR. ANURAG GUPTA,

S/o. Mr. Prakash Chand Gupta,
aged about 58 Year, Occ. Business,
Personal Guarantor of M/s. MBS Impex Pvt Ltd.,
3-5-784/B&C, Nageena Building, King Koti,
Hyderabad, Telangana - 500001.

...APPELLANT

V

M/S. RARE ASSETS RECONSTRUCTION PVT LTD

Rep. by its Director Mr. Anil Kumar Bhandari
104-106, Gala Agros,
Beside Harikrupa Road, Ellisbridge,
Ahmedabad - 380006

...RESPONDENT NO.1

M/S. MBS IMPEX PRIVATE LIMITED

Rep. by its Liquidator Mr. Santosh Bhatia
Registered office at #5-9-45, Aashi Towers,
Basheerbagh, Hyderabad- 500 063.
Also, at: 1st Floor, #125 MG Road,
Secunderabad- 500 003.

...RESPONDENT NO.2

VAMSHI KAMBHAMMETTUE

(IBBI/IPA-001/IP-P00664/2017-2018/1114)
Address: A85, DX4, Road No.11, Film Nagar,
Jubilee Hills, Hyd-5000333

...RESPONDENT NO.3

Present :

For Appellant : Mr. Pogulkunda Pratap, Advocate
For Respondent : Mr. Varun Srinivasan, Advocate for R1
Mr. VVSN Raju, Advocates for R3

ORDER
(Hybrid Mode)

[Per: Jatindranath Swain, Member (Technical)]

The instant appeal has been filed by Mr Anurag Gupta, the Appellant, who is the personal guarantor of M/s. MBS Impex Private Limited, the Corporate Debtor. He seeks to challenge the impugned order dated 08.05.2025 rendered by Ld. Adjudicating Authority in IA/2106/2024 in CP(IB) 141/95/HDB/2022, by virtue of which Ld. Adjudicating Authority allowed the application preferred by Respondent-1, the Financial Creditor, M/s. Rare Assets Reconstruction Limited and appointed Respondent No. 2 as Bankruptcy Trustee for the Appellant.

2. The company appeal is accompanied by an application IA/1106/2025, where the Appellant has prayed for condonation of delay of 15 days, in filing the appeal. He has submitted that the order was pronounced on 08.05.2025, that he came to know about the passing of the impugned order, only upon receiving an email communication from the newly appointed Bankruptcy Trustee on 16.05.2025 and its then only that he e-filed the appeal on 07.07.2025.

3. He has further submitted that Ld. NCLT, Hyderabad, was closed for summer vacation for the period 10.05.2025 to 25.05.2025, during which

period he was unable to have access to the Ld. Tribunal, to apply for a certified copy of the impugned order. Further, due to technical glitches on the BharatKosh portal, he was unable to make the payment of stamps for the application, and therefore, he could apply for the certified copy only on 09.06.2025 and could receive the same on 18.06.2025.

4. He has stated in the said application, i.e., IA/1105/2025, filed for seeking condonation of delay in filing the appeal that, as per Rule 3 of NCLAT Rules, 2016, which is to be read with Section 4 of the Limitation Act, 1963, the period during which the Tribunal remains closed on account of vacation, is to be excluded while computing the limitation period. On basis of the aforesaid interpretation, he has claimed that the 16-day summer vacation period of Ld. NCLT from 10.05.2025 to 25.05.2025 has to be excluded from the computation of the 30-day limitation period prescribed under Section 61(2) of the code and upon such exclusion, the 30-day limitation period will end only on 24.06.2025 and accordingly the appeal preferred by him on 07.07.2025 will have to be construed to have been filed with a delay of 15 days if it is calculated from 24.06.2025, which is within the condonable period as prescribed by the proviso to Section 61(2) of the Code and has accordingly prayed that the delay of 15 days in filing the Appeal may be condoned.

5. The appeal was first taken up on 13.08.2025 and notices were issued to the Respondents. The Respondents have appeared before this Appellate Tribunal on 02.09.2025 and submitted that they will be filing counter to the said application for condonation of delay. Subsequently they filed their counter to delay, which was taken on record.

6. The Respondents have vehemently objected to the prayer for condonation of delay on the ground that the Appellant was a party to the proceedings in which the impugned order was passed and therefore, he cannot claim that, he was not aware of the passing of the impugned order allegedly till the Bankruptcy Trustee informed him about it on 16.05.2025 and further, the said claim is not acceptable as he has not produced any proof of the same. They have further stated that as per the NCLT notification, the summer vacation period of Ld. NCLT, Hyderabad was from 13.05.2025 to 23.05.2025, that the vacation notification clearly stated that the registry will be working during the vacation period and that the period between 08.05.2025 to 13.05.2025 and 23.05.2025 to 06.06.2025, when NCLT was working, should have been sufficient for the applicant to take steps to apply for the certified copy of the order, which he has failed to do. They have further stated that the Appellant applied for obtaining the certified copy of the impugned order only on 09.06.2025, and it shows lack of diligence on part of the Appellant, which will make him ineligible to get any

consideration, whatsoever on the aspect of the condonation of delay. Further, they have stated that both Rule 3 of NCLAT Rules and Section 4 of the Limitation Act, categorically state that exclusion of time on account of closure of the Tribunal will be permissible only when the limitation period expires within such closure period and therefore, exclusion of the period of closure as prayed by him is impermissible. They have stated that the impugned order was pronounced on 08.05.2025, the limitation period will end on 06.06.2025, additional 15-day period will end on 21.06.2025, the certified copy of the impugned order was applied only on 09.06.2025 and the appeal was filed only on 07.07.2025, which is well outside the period including the condonable period prescribed under Section 61 of the Code and since, no exclusion is permissible, the appeal is clearly barred by limitation, having been filed after the expiry of 45 days.

7. Perusal of the records show that the Appellant has not given a single reason in his pleadings as to why there was a delay in filing the appeal beyond the limitation period. It appears that as if he has taken the proceedings for granted that condonation of 15 days of delay can automatically be granted, which is not the case as per law and the delay has to be sufficiently explained to this Tribunal, and the Appellate Tribunal has to be convinced that there was a sufficient cause. The said aspect is unfortunately missing in the instant case. Further, the Appellant was a party

to the proceedings in which the impugned order was passed on 08.05.2025. Though he might not be present on the day of pronouncement of order, but since he has participated in the proceedings right from the day where the application under Section 95 of the Code was filed against him. Therefore, his plea that he was not aware of the fact of the order having been pronounced cannot be accepted by this Appellate Tribunal, being contrary to records. In any case, the limitation will start only from the date of pronouncement and not from the date of knowledge, especially when the Appellant is a party, and was contesting the proceedings.

His other argument that NCLT was closed for the summer vacation for 16 days and therefore the said 16 days should be excluded for the purpose of computation of limitation period is not acceptable by this Appellate Tribunal, because for the reasons that on a plain reading of the provision of Section 4 of the Limitation Act and Rule 3 of NCLAT Rules, it is crystal clear that such exclusion can be allowed only when the limitation period expires within such period during, which the Tribunal is closed. In this case, the Tribunal was very much open and functioning much before the last date of the limitation period which was 06.06.2025. Further, even if it is assumed that the Appellant came to know about the impugned order on 16.05.2025, it is seen that he has not taken any prompt steps for applying for obtaining the certified copy of the impugned order within the limitation period, which was

very much on, till 06.06.2025. This shows his lack of diligence in pursuing his cause, which is inexcusable as per the ratio laid down by the Hon'ble Supreme Court in the matter of **V. Nagarajan v. SKS Ispat & Power**.

8. On the basis of the discussions as above, we are of the view that the delay of 32 days (not 15 days as claimed by the Appellant) cannot be condoned, and in any case, it is beyond the powers granted to this Appellate Tribunal to condone delay of more than 15 days. Accordingly, the application IA/1106/2025 is rejected.

9. As a consequence, the **Company Appeal (AT) (CH) (Ins) No.371/2025** too is dismissed on the ground of being barred by limitation. All pending interlocutory applications will also stand closed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

09/04/2026
SN/MS/RS