NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI
(APPELLATE JURISDICTION)

IA No. 426/2026
in
Company Appeal (AT) (CH) (Ins) No. 90/2026
(IA No. 427/2026)

In the matter of:

ASREC (INDIA) LTD.,
Rep by Assistant Vice President
Mr. C. Anantha Kumar
Solitaire Corporate Park, Building No.2,
Unit 201-202 A & 200-202 B,
Ground Floor, Andheri-Ghatkopar Link Road,
Chakala, Andheri (East), Mumbai – 400 093 **… APPELLANT**

V

S. A. PREM KUMAR
Flat No. 2B, Abnaya Apartment
Plot No.3352 AC,
AF Block, 8th Strect, Anna Nagar,
Chennai – 600 040. **… RESPONDENT**

With

IA Nos. 266 & 584/2026
in
Company Appeal (AT) (CH) (Ins) No. 91/2026
(IA No. 265/2026)

In the matter of:

ASREC (INDIA) LTD.,
Rep by Assistant Vice President
Mr. C. Anantha Kumar
Solitaire Corporate Park, Building No.2,
Unit 201-202 A & 200-202 B,
Ground Floor, Andheri-Ghatkopar Link Road,
Chakala, Andheri (East), Mumbai – 400 093 **… APPELLANT**

V

S. ELANGOVAN

Flat No.3, 21/44 Q Block,
17th Street,
Anna Nagar, Chennai-600 040 **… RESPONDENT**

Present :

For Appellant : Mr. Kumarpal Chopra, Advocate
Mr. Ramesh Kumar Chopra, Advocate
For Respondent : Mr. Ravi Rajagopalan, Advocate

ORDER
(Hybrid Mode)

24.04.2026:

Oral Judgment: Justice Sharad Kumar Sharma, Member (Judicial)

These two company appeals have been filed under peculiar circumstances. Owing to the tenacity of arguments extended by the Ld. Counsels for the parties, we are bound to deal with each and every aspect of the case and particularly the aspect of limitation which has been the core contention, while deciding the company appeals.

2. A brief narration of dates becomes relevant, before we appreciate the respective arguments and record our findings on the same.

3. As per the Appellant' counsel, he contends the following: -

(i) The common impugned order under challenge for both the company appeals is that of 31.10.2025.

(ii) The Appellant admittedly applied for the certified copy of the impugned order on 07.11.2025, which was made available by the

Registry of the Ld. NCLT on 10.11.2025 and was issued to the Appellant on 18.11.2025.

(iii) The Appellant filed the respective Appeals on 14.12.2025, on the 44th day from 31.10.2025, which is the date of pronouncement of the impugned order.

(iv) After accounting for the time taken for obtaining the certified copy of the order which as per the Appellant, is 12 days (07.11.2025 to 18.11.2025), the delay in filing the respective appeals is only of 2 days which may be condoned.

4. The Ld. Counsel for the Respondents objects to the same, contending that the delay should not be condoned as the respective appeals were not filed on 14.12.2025 and were filed at a much later date and that the documents which were filed on 14.12.2025 will not qualify to be Appeal documents in accordance with the provisions of Rule 22 of NCLAT Rules. This is strongly denied by the Appellant's counsel stating that the appeals were indeed filed on 14.12.2025, that certain clerical mistakes were committed by his office which were subsequently rectified on 11.01.2026 and such mistakes, being procedural in nature, should not make the appeal booklets filed on 14.12.2025 as inadmissible. At this juncture, the issue to be determined in respect of each appeal is as to whether the records, which were e-filed by the Appellant in the shape of the company appeals, by e-

filing of the same before the Registry of this Appellate Tribunal on 14.12.2025, could at all be said to be in consonance with Rule 22 of the NCLAT Rules, 2016.

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5. According to the Appellant, he submits that, admittedly there had been certain procedural infirmity on part of the chambers of the Ld. Counsel when they had uploaded the spare copy of the company appeal (which was unsigned) on the website of NCLAT, that realizing the mistake, the correct copy of the memorandum of appeal was uploaded on 11.01.2026 and that there is no difference between the copy of the booklet uploaded on 14.12.2025 and 11.01.2026 and hence the date of e-filing of the Appeal should be taken as 14.12.2025.

6. This has been argued otherwise by the Ld. Counsel for the Respondent; he contends that, only a part of the appeal records was uploaded by way of e-filing on 14.12.2025, that supplying of partial documents / records will not satisfy the ingredients required to be satisfied under Rule 22 of the NCLAT Rules, 2016, and hence the said filing of documents cannot be treated as filing of the company appeal. He has further stated that even the records uploaded on 11.01.2026 may not satisfy the conditions contained under Rule 22 of the NCLAT Rules, 2016, since requisite fees for the condone delay application was paid on a later date and since the said Rule 22 is mandatory in nature, such filing cannot be treated as e-filing of the appeal.

7. The Registry reports that the company appeal, has been filed with a delay of 2 days. The Ld. Counsel for the Appellant argues that, when the company appeal was e-filed on 14.12.2025, the condone delay application and a supporting affidavit were also filed with it and it can be seen from the stamp affixed on the affidavit accompanying the application.

8. This has been argued to the contrary by the Ld. Counsel for the Respondent, contending thereof that, neither 14.12.2025 nor 11.01.2026 cannot be taken as to be the date of filing the condone delay application for the reason being that, according to the records supplied by the Appellant himself along with the memorandum of appeal, the date of payment of fees in the Bharatkosh Portal is shown to be 02.03.2026 and therefore, even though the Appellant claims to have filed a condone delay application along with the appeal on 14.12.2025, it cannot be considered to be a duly instituted condone delay application as on 14.12.2025 as per the provisions of Rule 22 of the NCLAT Rules, 2016.

9. The Ld. Counsel for the Respondent has further argued that since the fee was paid on 02.03.2026 in accordance with the records of the Appellant itself, the condone delay application would be deemed to have been actually preferred on 02.03.2026 which is beyond the period of limitation including the condonable period prescribed under Section 61(2) of the I & B Code, 2016 and in such a case, the delay cannot be condoned. He has further stated that in case we accept the contention of the Appellant that the condone delay application was filed along

with the memorandum of appeal on 14.12.2025, then the said application cannot be considered as a valid application in the absence of payment of requisite fees and therefore, the same cannot be taken into consideration, for the purposes of considering the aspect of condonation of delay and consequently, the appeal has to be rejected as time-barred.

10. We have given our thoughtful consideration to the arguments extended by the Ld. Counsels for the parties. The Ld. Counsel for the Appellant, in support of his contention had submitted that, the discrepancies in respect of the company appeal as pointed by the Respondent, are curable defects for which his appeal ought not to be dismissed and in relation thereto he makes reference to a judgment of the Hon'ble High Court of Delhi, as rendered in the matters of **Oil and Natural Gas Corporation Limited V. Joint Venture of M/s. Sai Rama Engineering Enterprises (Sree) & M/s. Megha Engineering & Infrastructure Limited (Meil)** and he has particularly drawn attention to the contents of para 6, 7, 19, 37 & 40, which are extracted hereunder: -

> *"6. ONGC received a copy of the impugned award on 23.10.2018. The period of limitation, for filing an application under Section 34 of the A&C Act for setting aside the impugned award, is three months, as provided by Section 34(3) of the A&C Act. The said period expired on 23.01.2019. On the last date of the limitation - that is, on 23.01.2019 - the appellant filed an application under Section 34 of the A&C Act purportedly to assail the impugned award.*

However, the file that was uploaded electronically on the filing portal did not relate to the present matter.

7. The aforesaid filing was marked defective and was returned by the Registry of this Court on 29.01.2019. The appellant claims that it found that an incorrect CD of a different matter captioned 'Reliance Infrastructure v Aravali Power Co. Pvt. Ltd.' had been uploaded. The appellant states that it contacted the agency that handles the filing and 2023/DHC/000135 scanning of their documents. The said agency, again, took two to three days to complete the same.

... ...

... ...

19. As a matter of fact, the appellant had uploaded certain documents on 23.01.2019 at 03:45 p.m. The Registry of this Court had acknowledged the said filing by an e-mail sent at 03:49 p.m. on 23.01.2019. The appellant claims that it was subsequently discovered that an incorrect file had been electronically uploaded on 23.01.2019. The file that was uploaded related to a case captioned "Reliance Infrastructure v. Aravali Power Co. Pvt. Ltd.". Thus, it is not in dispute that the said filing cannot be considered as filing of an application under 2023/DHC/000135 Section 34 of the A&C Act, assailing the impugned award. Admittedly, no such application was filed on 23.01.2019.

... ...

... ...

37. It is, thus, necessary to bear in mind the distinction between the procedural requirements that can be cured and those defects that

are so fundamental that the application cannot be considered as an application under Section 34 of the A&C Act, at all.

38. ... ...

39. ... ...

40. It is relevant to note that the affidavits accompanying the application filed on 20.02.2019 were signed but not attested and to that extent, the defects as pointed out are not accurate. It is clear from the above, that none of the defects are fundamental as to render the application as non-est in the eyes of law. All the defects, as pointed out, are curable defects. It is settled law that any defect in an affidavit supporting pleadings can be cured. It is seen from the record that the filing was also accompanied by an executed vakalatnama, however, the same was not stamped. It is also settled law that filing of a court fee is necessary, however, the defect in not filing the court fee along with the application can be cured. In view of above, we are unable to accept that the application, as filed on 20.02.2019 or thereafter on 23.02.2019, was non est."

11. More or less, if we go through this judgment, it envisages that defects like not paying the required court fee, non-stamping of vakalatnama, uploading of wrong documents by mistake and unattested signed affidavits are curable defects, and that such defects are to be liberally construed by the Courts, in a wider interest of justice, so as to enable the party to the proceedings to get the lis decided on its own merits.

12. The Ld. Counsel for the Appellant further argues that, in the present case too, he uploaded the wrong document which was later on rectified and the requisite fees were paid later on and therefore, these defects should not be held against him so as to dismiss the company appeal on grounds of limitation.

13. On the contrary, the Ld. Counsel for the Respondent submitted that, this argument of the Ld. Counsel for the Appellant cannot be accepted, because so far as the validity of Rule 22 of the NCLAT Rules, 2016, is concerned, that has been upheld by the Hon'ble Apex Court and it has been laid down therein that, the Rule 22 of the NCLAT Rules, 2016, which contemplates the procedure for filing of an appeal before the Appellate Tribunal has to be strictly followed and no latitude as such in institution of the company appeals could be taken into consideration, when it comes to considering the determination of delay and the validity of its institution. In relation thereto, he has referred to the judgment as rendered by the Hon'ble Apex Court in Civil Appeal No.11070-11071/2024, in the matters of **A. Rajendra V. Gonugunta Madhusudhan Rao & Ors.**, particularly, he has referred to para 28 & 29, which are extracted hereunder: -

> *"28. The application of condonation of delay in the first appeal, disclosing no reasons whatsoever in filing the appeal, the Appellate Tribunal was justified in dismissing the application for condonation of delay. The satisfaction has to be of the Appellate Tribunal and that too on justifiable grounds, which, as is apparent, from the perusal of the application there is none pleaded which can be said to be*

projecting sufficient cause for not approaching the Appellate Tribunal within the time stipulated under Section 61(2) of the IBC.

29. The other reasons as has been assigned by the Appellate Tribunal for rejecting the application for condonation is clearly borne out from the pleading and the facts which do not call for any interference in the present appeals."

14. Though, the issue involved therein, which had been adjudicated by the Hon'ble Apex Court, in its judgment rendered on 04.04.2025, may not directly relate to the issue under consideration in the instant company appeal, the aforesaid judgement very categorically states that appeals filed under section 61(2) of I&B Code will have to strictly conform to the provisions of Rule 22 of the NCLAT Rules, 2016. In the instant case, the condone delay application has allegedly been filed without payment of requisite fees which has been paid later and hence the said application as on 14.12.2025 cannot be held to be a valid application and it will be treated as a valid application only with effect from 02.03.2026 when the fees have been paid as per the documents supplied by the appellant himself.

15. The Ld. Counsel for the Respondent, in elaboration of his arguments, has referred to the Judgment of **Ashdan Properties Private Limited & Ors. V. DSK Global Education and Research Pvt. Ltd. & Anr.**, and particularly, he has referred to para 12 of the said judgment, which is extracted hereunder: -

"12. Viewed thus, the fact that respondent No. 1 casually e-filed an appeal on 25.07.2023, with neither an application for

condonation of delay nor an application seeking exemption from filing a certified copy of the impugned order, rendered its appeal defective. Admittedly, it was only on 25.08.2023 that respondent No. 1 filed an application seeking permission to file the appeal and an application for condonation of delay was filed much later, on 22.09.2023. Presumably, it was at this time that a certified copy of the impugned order was filed without even seeking exemption or extension of time to do so. These aspects ought to have been considered by the NCLAT as the statute peremptorily requires proper institution of an appeal in conformity with all the prescribed norms and it was incumbent upon the NCLAT to examine and verify as to whether respondent No. 1's appeal was in due compliance with all such norms. More so, when the appellant herein had specifically raised the issue that such appeal was barred by limitation. The NCLAT erred in completely brushing aside this crucial aspect which went to the very root of its appellate jurisdiction."

16. To summarize, in Company Appeal (AT) (CH) (Ins) No.90/2026, the impugned order happens to be of 31.10.2025, the company appeal was filed on 14.12.2025 and was not accompanied by a validly executed condone delay application as on 14.12.2025, because the fees for the same was remitted only on 02.03.2026. Since, the condone delay application came into being only 02.03.2026, it will have to be treated to have been filed beyond the limitation period and as a consequence, has to be rejected and the company appeal will have to be treated as barred by limitation.

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17. Similarly, in Company Appeal (AT) (CH) (Ins) No. 91/2026, the impugned order under challenge is of 31.10.2025, the company appeal was preferred on 14.12.2025, and the accompanying condone delay application was not supported by payment of requisite fees which was paid only on 11.01.2026. Because, the requisite fees were paid only on 11.01.2026, there was no validly instituted condone delay application as on 14.12.2025 and the condone delay application which has been filed, will be deemed to have come into existence from 11.01.2026 only. Thus, it cannot be taken up for consideration in view of the discussions in the preceding paragraphs and has to be necessarily rejected as being barred by limitation. Hence, this company appeal too was barred by limitation as prescribed under Section 61 of the I & B Code, 2016.

18. Summarizing the discussions as above, we hold that as per the ratio propounded by the Hon'ble Apex Court in para 12 of the said judgment of Ashdan Properties (supra), where it lays down the modalities to be strictly followed for the purposes of filing of an appeal before the Appellate Tribunal under Section 61 of the I & B Code, 2016, institution of an appeal means a valid institution of appeal, and this will include within itself payment of the requisite fees prescribed for filing the appeal and the accompanying applications and documents, payment of fees at a later stage will not constitute as to be a valid institution of a condone delay application. In the instant case, though the condone delay applications are

claimed to have been filed along with the respective appeals on 14.12.2025, the requisite fees have been paid on 02.03.2026 and 11.01.2026, which fall beyond the prescribed period of limitation. Hence there is no validly executed condone delay application till 02.03.2026 or 11.01.2026 respectively which were accompanying the appeals. The Appellant has also utterly failed to establish that, at the time when he instituted the appeals on 14.12.2025, they were supported by validly executed condone delay applications. Since, the said applications came into legal existence only from 02.03.2026 and 11.01.2026 respectively, we have got no other option except to dismiss the appeals on the ground of non-filing of validly instituted condone delay applications, which could have been considered by us on merits.

As a consequence of the same the company appeals too would stand 'dismissed'.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

AR/MS/AK