

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Ins.) No.1040 of 2023
& I.A. No. 3560 of 2023

IN THE MATTER OF:

M K Overseas Export Pvt. Ltd.

...Appellant

Versus

Sapan Mohan Garg

Resolution Professional of M K Overseas Pvt. Ltd.

...Respondent

Present:

**For Appellant: Mr. Kumar Mihir, Mr. Rakesh Kumar, Mr. Ankit Sharma,
Advocates.**

For Respondent:

ORDER

22.09.2023: I.A. No. 3560 of 2023: Heard Learned Counsel for the applicant. This is an application praying for condonation of 29 days delay in filing the Appeal. The order was pronounced by Adjudicating Authority on 27.04.2023 and appeal was e-filed on 24.06.2023. In paragraph 3 of the application, the applicant has given basis on which exemption is sought for which is to the following effect:

“That the impugned order is passed on 27.04.2023, and the appeal was to be filed within a period of 45 days thereof i.e. by 11.06.2023. However, due to the summer vacation, the Appellant was able to filed the instant appeal on 24.06.2023 with a delay of 29 days which were neither deliberate nor intentional and therefore, is filing the instant application seeking condonation of delay in filing the instant appeal.”

2. Learned Counsel for the applicant submits that appellant came to know about the order only on 12.05.2023, hence, the limitation shall start from the date when appellant came to know about the order.
3. We have considered submissions of the counsel for the applicant and perused the record.
4. Orders having pronounced on 27.04.2023 the period of limitation shall be commenced from the date of pronouncement as has been laid down by the Hon'ble Supreme Court in "*V. Nagarajan*" case.
5. In so far as the submission of the applicant that there was summer vacation, therefore, appeal could not be filed. There is already notification issued by the Registry that filing of the appeal is not precluded during summer vacation and Court also use to convene twice in a week to consider urgent matters. Therefore that submission has also no legs to stand.
6. The appeal having been filed beyond 15 days after expiry of limitation. Our jurisdiction to condone delay is limited to only 15 days as per Section 61(2) proviso. We are unable to condone 29 days delay in filing the Appeal. Delay Condonation Application is dismissed. In result, Memo of Appeal is rejected.

**[Justice Ashok Bhushan]
Chairperson**

**[Mr. Barun Mitra]
Member (Technical)**

**[Mr. Arun Baroka]
Member (Technical)**

sa/nn