

INDOSPIRIT DISTRIBUTION LIMITED VS KRISTAL SPIRITS INDIA PRIVATE LIMITED

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Case Summary:

1. Details of the Parties:

- **Appellant:** Indospirit Distribution Limited
- **Respondent:** Kristal Spirits India Pvt Ltd

2. **Facts of the Case:** The appellant filed a Section 9 petition under the Insolvency and Bankruptcy Code (IBC) before the National Company Law Tribunal (NCLT), which was dismissed at the admission stage by the NCLT on 16.10.2023, on the grounds that it was time-barred. The appellant argued that the NCLT had misinterpreted the Supreme Court's ruling in the case *In Re: Cognizance for Extension of Limitation* (10.01.2022), which extended the period of limitation due to the COVID-19 pandemic.

The appellant's claim was based on the fact that the limitation period for the petition expired on 01.11.2022, but as per the Supreme Court judgment, the period from 15.03.2020 to 28.02.2022 was excluded from the computation of limitation.

3. Issues Involved:

- Whether the period from 15.03.2020 to 28.02.2022, as directed by the Supreme Court, should be excluded for the purposes of computing limitation under Section 9 of the IBC.
- Whether the Section 9 petition filed on 31.08.2023 was

within the limitation period considering the exclusion of time during the pandemic.

4. **Judgment:** The National Company Law Appellate Tribunal (NCLAT) observed that the period from 15.03.2020 to 28.02.2022, as per the Supreme Court's judgment, must be excluded for calculating the limitation period. Consequently, the appellant's Section 9 petition, filed on 31.08.2023, was within the permissible limitation period.

The appeal was allowed, and the petition was restored to its original number before the NCLT. The NCLAT's decision was based on interpretations from the Supreme Court's ruling and Delhi High Court decisions on the exclusion of the pandemic period from limitation calculations.

5. **Conclusion:** The appeal was successful, and the NCLAT held that the appellant's petition under Section 9 of the IBC was filed within the limitation period, thereby restoring the petition before the NCLT.