

Luxture Surface Coatings Pvt. Ltd. v. Dhanuka Realty Ltd.

Luxture Surface Coatings Pvt. Ltd.

...Appellant

Dhanuka Realty Ltd.

...Respondent

Case No: (Company Appeal (AT) (Insolvency) No. 1282 of 2023)

Date of Judgement: 07.11.2023

Judge:

[Justice Ashok Bhushan] Chairperson

[Barun Mitra] Member (Technical)

[Arun Baroka] Member (Technical)

For Appellant: Mr. Tanveer Oberoi, Mr. Nikhil Yadav, Advocates

For Respondent: Mr. Yash Tandon, Mr. Ankit Sareen, Advocates

Facts:

This is an appeal filed by Luxture Surface Coatings Pvt. Ltd. against the order dated 01.06.2023 passed by Dhanuka Realty Ltd. The appeal was filed with a delay of 23 days. The appellant applied for condonation of delay. The appellant received the certified copy of the impugned order on 09.07.2023 through speed post. The appellant stated that being a private limited company with directors travelling, it could not act promptly on the order.

Courts Elaborate Opinions:

I.A. No. 4461/2023 for condoning delay of 32 days in refiling appeal was allowed, delay condoned. I.A. No. 4542/2023 for condoning delay of 23 days in filing appeal was rejected. Bench referred to Section 61(2) proviso limiting condonation of delay to only 15 days. Delay condonation application rejected and appeal dismissed.

Sections:

I.A. No. 4461/2023 was an application for condonation of delay of 32 days in refiling the appeal. The delay was condoned. I.A. No. 4542/2023 was an application for condonation of delay of 23 days in filing the appeal. The bench referred to Section 61(2) proviso of the Act which limits condonation of delay to only 15 days. The bench rejected the delay condonation application and dismissed the appeal memo.

Referred Laws:

The National Company Law Appellate Tribunal referred to the provisions for condonation of delay under Section 61(2) proviso of the Companies Act. The time limit for condoning delay is restricted to only 15 days as per this provision. Based on this, the NCLAT bench rejected the delay condonation application for 23 days delay.

In summary, this was an appeal by Luxture Surface Coatings against order of Dhanuka Realty Ltd dismissed by NCLAT due to delay beyond 15 days in filing appeal. The delay condonation application was rejected based on Section 61(2) proviso of the Companies Act.

Download

Judgement: <https://dreamlaw.in/wp-content/uploads/2023/11/publish-1-2.pdf>

Full text of judgement:

1. This is an application praying for condonation of delay of 32 days in refiling the Appeal.

2. Learned Counsel for the Appellant submits that certified copy of the Order was applied but sometime was taken in translation of the document from Hindi to English.
3. Cause shown sufficient. Refiling delay is condoned.
4. I.A. No. 4542 of 2023. This is an application praying for condonation of 23 days delay in filing the Appeal. Order impugned was passed on 01st June, 2023 and Appeal was e-filed on 01st August, 2023 with delay of 23 days.
5. Learned Counsel for the Appellant has relied on paragraph 4 of the Application where reasons have been given which is to the following effect:

“4. The appellant has received the certified copy of the impugned order dated 01.06.2023 on 09.07.2023 through speed post and it is further important to state that appellant being a private limited company with the directors travelling in various parts of rajasthan and India could not promptly act on the same for these personal reasons. The copy of the Company Appeal (AT) (Insolvency) No. 1282/2023 speed post receipt along-with tracking report is attached as Annexure-1.”
6. Our jurisdiction to condone the delay is limited to 15 days only as per Section 61(2) proviso hence we are unable to condone the delay of 23 days. Delay Condonation Application is rejected. Consequently, the Memo of Appeal is dismissed.