

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NOS.8240-8241/2023

POWER INFRASTRUCTURE INDIA

APPELLANT(S)

VERSUS

POWER FINANCE CORPORATION LTD. & ANR.

RESPONDENT(S)

O R D E R

1. Heard learned counsel appearing for the appellant and learned counsel appearing for the respondents.

2. By the impugned order, the National Company Law Appellate Tribunal (for short, 'the NCLAT') has rejected the application made by the appellant for condonation of delay in preferring an appeal under Section 61 of the Insolvency and Bankruptcy Code, 2016 (for short, 'the I.B. Code'). Under sub-section 2 of Section 61, the period of limitation for preferring an appeal against an order passed by the National Company Law Tribunal (for short, 'the NCLT') is of 30 days. Under proviso to sub-section 2 of Section 61, if there is a sufficient cause for condonation of delay, it can

be condoned to the extent of only 15 days. In the present case, the period of 15 days expired on 11th November, 2022. On that day, the appeal was admittedly e-filed. Next two days were holidays for the NCLAT. Therefore, a hard copy was filed 14th November, 2022.

3. The learned counsel appearing for the respondents rightly submitted that the timelines under the I.B. Code are of extreme importance and if the said timelines are not adhered to, the very object of the I.B. Code would be defeated. He would urge that liberal approach cannot be adopted while dealing with the issue of condonation of delay considering the scheme of the I.B. Code.

4. The NCLAT appears to have conducted a very detailed hearing and by a detailed impugned judgment running into 17 pages, has rejected the application for condonation of delay. The impugned order rejecting the application for condonation of delay was passed on 7th November, 2023. This appeal was filed before this Court on 15th December, 2023 which remained pending in this Court till today. We wonder why the NCLAT which has a high pendency should devote so much of time and energy in writing an order running into 17 pages for considering the application for condonation of delay.

While we say this, we cannot ignore that some times, such long orders are required to be written due to verbose and unnecessary long submissions of the members of the Bar. We find from the decisions after decisions which come before us that in many cases, the members of the Bar make very lengthy submissions before the NCLAT and file lengthy pleadings and affidavits in an application for the condonation of delay.

5. It is no doubt true that timelines have an importance under the I.B. Code. But the result of taking a hyper-technical view by the NCLAT is that the entire proceedings are delayed for more than 1 year as the appeal has remained pending in this Court for more than 13 months.

6. Instead of adopting hyper-technical approach, in view of the fact that the appellant is a company based in a foreign country, the NCLAT ought to have condoned the delay as it was filed on the 15th day provided in proviso to sub-section 2 of Section 61 of the I.B. Code. The delay of 15 days was adequately explained by the appellant. Accordingly, the impugned order dated 7th November, 2023 is hereby set aside and application for condonation of delay is hereby allowed. Now, the NCLAT will proceed to hear the Company Appeal (AT)

(Ins) Nos.1405-1406 of 2022 in accordance with law.

7. The appeals are accordingly allowed.

8. Pending application(s), if any, shall stand disposed of.

.....J.
(ABHAY S.OKA)

.....J.
(UJJAL BHUYAN)

NEW DELHI;
FEBRUARY 11, 2025.

ITEM NO.7

COURT NO.4

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.8240-8241/2023

POWER INFRASTRUCTURE INDIA

Appellant(s)

VERSUS

POWER FINANCE CORPORATION LTD. & ANR.

Respondent(s)

Date : 11-02-2025 These appeals were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Appellant(s) : Mr. Fereshte D Sethna, Adv.
Ms. Anuradha Dutt, Adv.
Mr. Ameya Pant, Adv.
Mr. Coral Shah, Adv.
Mr. Abhishek Chauhan, Adv.
Ms. B. Vijayalakshmi Menon, AOR

For Respondent(s) : Mr. Ramji Srinivasan Sr, Adv.
Mr. Umesh Kumar Khaitan, AOR
Mr. Deepak Khurana, Adv.
Mr. Abhishek Bansal, Adv.

Mr. Gajanand Kirodiwal, Adv.
Mr. Shivam Rajpal, Adv.
Mr. Faisal Sherwani, AOR

UPON hearing the counsel the Court made the following
O R D E R

The appeals are allowed in terms of the signed order which is placed on the file.

Pending application(s), if any, shall stand disposed of.

(KAVITA PAHUJA)
ASTT. REGISTRAR-cum-PS

(AVGV RAMU)
COURT MASTER (NSH)