

IN THE NATIONAL COMPANY LAW TRIBUNAL: NEW DELHI
PRINCIPAL BENCH

ITEM No. 07
(IB)-486(PB)/2018

IN THE MATTER OF:

Usha Devi

.... Applicant/Petitioner

v.

Praveer Construction Pvt. Ltd.

... Respondent

Order under Section 7 of Insolvency & Bankruptcy Code (Liq.)

Order delivered on 02.06.2021

CORAM:

MS. MANORAMA KUMARI
HON'BLE ACTG. PRESIDENT

SH. HEMANT KUMAR SARANGI
HON'BLE MEMBER (TECHNICAL)

PRESENT:

For the Liquidator

Mr. Alok Kaushik, Liquidator with Mr. Rakesh Kumar, Ms. Preeti Kashyap and Mr. Ankit Sharma, Advocates

For the Applicant

Mr. Deepak Dahiya, Adv.

ORDER

The instant application is filed by the Applicant seeking condonation of delay in filing appeal under Section 42 of IB Code.

The learned lawyer appearing on behalf of Applicant submitted that he has filed his claim before the Liquidator on 26.10.2019. Thereafter, the Liquidator sent an E-mail to the Appellant on 18.12.2019, whereby, the Liquidator apprised that the claim of the Appellant for Rs. 20,00,00,000/- has been rejected and further apprised that area allotment would be due after getting clear title of the land from the authority. Liquidator further informed that the allotment of the plot was cancelled about 4 years prior to the signing of the settlement agreement and the status of the plot being under litigation was known to the claimant.

In view of the above quarries, the Appellant given a detailed letter to the Liquidator on 27.01.2020 and thereafter on bonafide belief that Liquidator shall give reply but during the said period from 25.03.2020 there was a



nationwide lockdown, as such, the appeal could not be filed before the adjudicating authority. Consequent upon which, only on 14.07.2020, the Appellant has filed the appeal. The delay caused due to the fact that the Liquidator would give some reply but on getting no response from the Liquidator for about 2 months, the Appellant intended to file the appeal but he is prevented because of the lockdown.

It is further submitted that there was no intentional delay or laches on the part of the Appellant to file the appeal seeking direction upon the Liquidator to consider the claim rather in bonafide belief that Liquidator may give some reply, as such, the delay is caused. There is only delay of 82 days which is required to be condoned.

Heard both sides at length, also seen the records.

It is a matter of record that the Appellant has filed his claim and is also waiting for the reply from the Liquidator, however, when he got a reply belatedly seeking clarification by the Liquidator, the Appellant has clarified the same and waiting for the final reply from the Liquidator but since did not get any reply from the Liquidator, the Appellant has to file appeal under section 42 of the IB Code for condonation of delay.

On perusal of the records, it is found that the delay caused is only due to miscommunication as well as COVID-19 Pandemic, which is unavoidable. Under such circumstances, if the delay is condoned in filing appeal, it is not going to prejudice anyone. Further, the Hon'ble Supreme Court in catena of cases has already observed that while condoning the delay, the competent authority must take lenient view.

Under such circumstances, the prayer so made by the Applicant is allowed by condoning the delay of 82 days and instant application stands disposed off accordingly.

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**(MANORAMA KUMARI)
ACTG. PRESIDENT**

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**(HEMANT KUMAR SARANGI)
MEMBER (TECHNICAL)**