

**NATIONAL COMPANY LAW TRIBUNAL
GUWAHATI BENCH**

IA No. 39 of 2017

Diary No.587/2017

In

T.P.No.1/2016(C.P.No.619/2010)

Under Section 397/398 of the Companies Act, 1956

In the matter of:

Asharam Leasing & Finance Pvt. Ltd. & Others. ...Petitioners

-Versus-

Doloo Tea Co. (I) Ltd. and Others ... Respondents

Coram:

Hon'ble Mr Justice P K Saikia, Member(J)

.....

ORDER

Date of Order: 15th September 2017

Mr S.K. Medhi, learned Sr. Advocate, assisted by Ms J. Tripathi & Mr S.G. Bhattacharjee, learned Advocates, is present representing the applicant in this application. Mr A. Banerjee & Mr R. Mullick, learned Advocates are present representing the respondent No.1 company.

2. This application has been filed by M/s Prithvi Tea Company Pvt. Ltd. (hereinafter referred to as the applicant) praying for condonation of the delay in filing the substitution application for substitution of the name of the legal heirs of respondent No.8.

3. Learned Advocate for the applicant submits that a delay of 47 days occurred in preferring the application seeking substitution of the legal heirs of respondent No.8.

4. Notices have been served on all the respondents. Mr A. Banerjee, learned Advocate for respondent No.1 submits that respondent No.1 has no objection

in allowing the prayer for condonation of delay. However, the other respondents have chosen to remain absent despite notices having being served on them.

5. The grounds for the delay in preferring the substitution application have been assigned in para 4 of the application. For ready reference, same is reproduced below:

"That the respondent No.8 had died on 08.01.2017. It is stated that 90 days time is allowable under Article 120 of the Schedule to the Limitation Act, 1963, therefore, the application for substitution of deceased respondent by his legal representatives, which is accompanying herewith, ought to have been filed on or before 8.04.2017. A further time of 60 days time is allowable under Article 121 of the Schedule to the Limitation Act, 1963 for setting aside abatement and, as such, the said application ought to have been filed on or before 07.06.2017. Therefore, on filing of the application for setting aside abatement on 25.07.2017, the said application is barred by limitation by 47 days."

6. On going through the application, I find that the applicant could not file the substitution application in time for valid reason and, therefore, the delay is condoned.

7. The application stands disposed of.



Member (Judicial)
National Company Law Tribunal,
Guwahati Bench,
Guwahati

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