

BEFORE THE NATIONAL COMPANY LAW TRIBUNAL,  
DIVISION BENCH, CHENNAI

Arguments heard on 07.04.2017  
Orders passed on 11.04.2017

**C.A.No. 30 of 2017**

Under Rule 15 of the NCLT, Rules, 2016

Applicant : *M/s.Pigments India Ltd.*  
*Represented by Counsel Shri Nasiruddeen Alungal*  
-- Vs --  
Respondent : *Registrar of Companies, Kerala*  
*Represented by Ms. B. Ambili, Prosecutor*

CORUM

ANANTHA PADMANABHA SWAMY & CH MOHD SHARIEF TARIQ  
MEMBERS (JUDICIAL)

**ORDER**

CH MOHD SHARIEF TARIQ MEMBER (JUDICIAL) :- (ORAL)

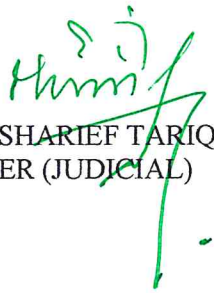
1. We have heard the Counsel Mr. Nasiruddeen Alungal for the Applicant and the Prosecutor Ms. B. Ambili representing the Registrar of Companies, Kerala (hereinafter called the ROC). The Applicant prayed for condonation of delay and extension of time for filing BIFR's order dated 29.7.2016 with Form INC 28 so as to enable ROC to approve Form INC 28 filed for registering the Order of the BIFR.

2. It is seen that the BIFR has passed order on 29.7.2016 and the applicant applied for certified copy of the order on 27.10.2016 which was received on 17.11.2016 and Form INC 28 was filed on 21.11.2016 with ROC after expiry of 30 days of passing of the order, but within 30 days of receipt of the certified

copy of the order. It has been submitted by the counsel for the applicant that the Advocate who has been representing before BIFR has given the information very late due to which the Application for obtaining certified copy of the order of BIFR was made on 27.10.2016. It is settled legal position that, for the default of the Advocate/Counsel, the party should not suffer. The Prosecutor representing the ROC, Kerala submitted that there is no statutory compulsion on the company to file the Scheme sanctioned by the BIFR with the ROC but the company has chosen to file the order of the BIFR dated 29.7.2016 with the ROC, Kerala. The Form INC 28 was to be filed within 30 days and due to the delay in filing the same, the system did not permit to work the item to be approved by the Authorising Officer unless the delay is condoned. The Prosecutor further submitted that the ROC has no objection if the delay is condoned.

3. In view of the submissions made by both of the parties, we, in exercise of powers under Rule 15 read with Rule 11 of the NCLT Rules, 2016, condone the delay which is stated to be of 85 days from the due date which was 28.8.2016 till the date of filing Form INC 28, which was done on 21.11.2016 and thereafter till this date, as the matter was *sub judice* before this Bench. Therefore, the applicant company is directed to file the necessary Form within 15 days the order is uploaded on the website of NCLT along with copy of this Order with <sup>the ROC</sup> ROC. The ROC is directed to accept the same in order to comply with the Order of this Tribunal.

  
ANANTHA PADMANABHA SWAMY  
MEMBER (JUDICIAL)

  
CH MOHD SHARIEF TARIQ  
MEMBER (JUDICIAL)