

**BEFORE THE NATIONAL COMPANY LAW TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD**

**C.A No. 16 of 2016**

**In**

**C.P No. 01 of 2016**

**Date of Order: 20.09.2016**

Between:

YAJUR Commodities Limited

(Formerly known as Virtuous Urja Limited) ..... Applicant/Petitioner

**AND**

Basai Steels and Power Private Limited & Ors ..... Respondents

Counsel for Applicant

.... Sh. P. Vikram

Counsel for Respondents

..... M/s Sharad Sanghi

**CORAM:**

HON'BLE Mr. RAJESWARA RAO VITTANALA, MEMBER (JUDL)

HON'BLE Mr. RAVIKUMAR DURAISAMY, MEMBER (TECH)

**ORDER**

**(As per Rajeswara Rao Vittanala, Member (J))**

1. The Company Petition No.01 of 2016 was filed by the Petitioner under Section 58 (3) read with Section 58 (5) of the Companies Act, 2013 by inter-alia seeking a direction to transfer 1,99,19,274

Equity shares of Rs.10/- each in favour of the Petitioner Company and consequently direct to rectify the Register and to pay damages, etc.

2. The Company Application No. 16 of 2016 is filed under Regulation 44 of the Company Law Board Regulations, 1991 by seeking to condone the delay of 25 days in filing the Company Petition.
3. The Learned Counsel for the Applicant submits that the delay is absolutely bonafide and rejecting the present application would cause irreparable loss to the Applicant and is beyond the control of the Applicant.

He relied upon the following judgments:

  - a. Judgment dated 01.04.2005 rendered in Crl. Appeal No. 484 of 2005 (arising out of S.L.P. (Crl) 4612 of 2003) in the case of State of Nagaland Vs Lipok AO and Others of the Hon'ble Supreme Court of India.
  - b. Judgment dated 27.03.2012 in C.A No 3306 of 2012 (Arising out of SLP(C) No. 26538/2009) in the case of S. Ganeshraju (D) Thr. L.Rs. and Anr Vs. Narasamma (D) Thr. L.Rs. and Others of the Hon'ble Supreme Court of India.

- c. Judgment dated 28.07.2000 in O.S.A. Nos 163 and 164 of 1999 and C.M.P. Nos 14411 and 14412 of 1999 in the case of C. Subramaniam Vs. Tamil Nadu Housing Board represented by its Chairman and Managing Director of the Hon'ble High Court of Madras.

It is held in the above judgments that the word sufficient cause to condone the delay should be given liberal construction so as to advance substantial justice. The Court should not adopt injustice oriented approach in rejecting the application for condonation of delay. Whether the delay is explained satisfactorily or not is to be seen for condonation of the delay in the respective cases.

4. The Learned Counsel for the Respondents opposed the Company Application by filing a counter, by disputing the contention of the applicant that the delay was caused inadvertently and it is not correct to say that the delay was caused beyond the control of the Applicants. He relied upon the Judgment dated 05.07.2016 in C.A. No. 5862 of 2016 between Sh. Ajay Gupta Vs. V. Raju (2016 SCC On Line SC 683) of the Hon'ble Supreme Court in support of his contention. This case relates to condonation of delay in filing the suit on non-working Saturday for Judges, for enabling them to write judgments and when it is working day for the Office of the

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Court. This case would not help the Respondents since, the present Company Petition is filed with a nominal delay of 25 days and the same was satisfactorily explained by Applicants.

5. It is settled position of law that there should be liberal interpretation of law relating to limitation in entertaining cases and also should see that if a prima-facie case is made out in the main case, it cannot be thrown at threshold by rejecting the application for condonation of delay. We find there is a prima-facie case in the main Company Petition and we are satisfied that the Applicant has explained the delay with the plausible reasons

In view of the above circumstance of the case and in the interest of Justice, we allow C.A No. 16 of 2016 and C.P No. 01 of 2016 by condoning the delay of 25 days in filing the Company Petition.

Sd/-

**RAVIKUMAR DURAISAMY**  
**MEMBER (TECH)**

Sd/-

**RAJESWARA RAO VITTANALA**  
**MEMBER (JUDL)**

*V. Annapoorna*  
**V. ANNA POORNA**  
Asst. DIRECTOR  
NCLT, HYDERABAD - 68

