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**(2026) 07 NCLAT CK 0084**

**In the National Company Law Appellate Tribunal**

**Case No :** Comp. App. (AT) No. 263 of 2026 & I.A. No. 4789 of 2026

ADS Agro Industries Pvt. Ltd. & Ors. (Formerly M/S HSB Agro Industries Pvt. Ltd.) APPELLANT

Vs

Mali Ram Bilwal & Ors. RESPONDENT

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**Date of Decision :** 14-07-2026

**Acts Referred:**

**Citation :** (2026) 07 NCLAT CK 0084

**Hon'ble Judges :** Mohammad Faiz Alam Khan, Member (Judicial); Naresh Salecha, Member (Technical)

**Bench :** Division Bench

**Advocate :** For Appellant : Mr. Yash Anand, Mr. Sumit & Mr. Naveen Swami, Adv.  
For Respondents : None.

**Final Decision :** Allowed

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## Judgement

**(Hybrid Mode)**

**I.A. No. 4789 of 2026**

Keeping in view the averments made in the application for delay caused in refiling of the appeal, the delay of 12 days occurred in filing the appeal is hereby condoned.

**Comp. App. (AT) No. 263 of 2026**

1. Heard Learned Counsel for the Appellant and perused the record.
2. The instant appeal has been moved by the Appellant who was an Applicant before the Learned Adjudicating Authority in Restoration Application No. 63(ND) of 2023, being aggrieved by the Impugned Order dated 12.05.2026 whereby the cost of Rs. 2,00,000/- was imposed on the Applicant/ Appellant passed.
3. Learned Counsel for the Appellant submits that the aforesaid Restoration App/63/ND/2023 came before the Learned Adjudicating Authority on 17.03.2026

and having regard to the difficulty faced by the arguing counsel a Proxy Counsel has appeared on behalf of the Applicant and by noticing that the Proxy Counsel is not able to assist the Tribunal cost of Rs. 1,00,000/- was imposed by the Learned Tribunal to be paid in the Prime Minister Relief Fund till the next date of listing and date 12.05.2026 was fixed in the Restoration Application.

4. It is further submitted that in between an application for waiver of this cost was prepared and filed by the Appellant on 09.05.2026, however, without any fault of the Applicant, the waiver application could not come before the Tribunal on 12.05.2026 and during the course of proceedings without any basis, simply on the fact that the Counsel for the Appellant has referred to the waiver application in hi submissions, the cost of Rs. 1,00,000/- which was imposed vide order dated 17.03.2026 was enhanced to Rs. 2,00,000/-.

5. It is further submitted that on 19.05.2026, the waiver application came before the Tribunal being I.A. No. 188/ND/2026 for disposal and the same was dismissed on the ground that already the contents of this application has been considered while passing orders dated 17.03.2026 and 12.05.2026.

6. It is vehemently submitted that there was no occasion for the Learned Adjudicating Authority to impose a cost of Rs. 1,00,000/- either on 17.03.2026 or enhancement of cost to Rs. 2,00,000/- on 12.05.2026, as on 17.03.2026 the Proxy Counsel was not able to assist the Court as the Counsel for the Appellant/ Applicant was in personal difficulty and on second day i.e., 12.05.2026 the cost has been enhanced to Rs. 2,00,000/- only on the ground that the Counsel for the Appellant has referred to a waiver application which was unfortunately not placed before the Tribunal without any fault of the Applicant.

7. We at the outset place on record that the matter of imposing or waiving off the cost is a matter between the Court and the party to whom the cost has been imposed, therefore, we dispense the issuance of notice of this appeal, so far as the Respondents are concerned.

8. Having gone through the record, the facts of the case appears to be not in dispute. The order dated 17.03.2026 and 12.05.2026 as well as the Impugned Order dated 19.05.2026 passed by the Tribunal are already on record.

9. Perusal of the order dated 17.03.2026 would suggest that the arguing Counsel for the Applicant was in personal difficulty on that day and he has deputed a Proxy Counsel, who could not assist the Tribunal and for this reason a cost of Rs. 1,00,000/- was imposed by the Tribunal.

10. We understand that the Proxy Counsels generally are not in a position to assist the Courts as they do not hold the brief.

11. So far as the second occasion i.e., on 12.05.2026, is concerned the Learned Counsel for the Applicant/ Appellant has only mentioned about the cost waiver application filed by him on 09.05.2026, which was not available on record and being annoyed by the same, the cost of Rs. 1,00,000/- was enhanced to Rs.

2,00,000/-. We do not find any cogent reason on which the Tribunal could enhance the cost of Rs. 1,00,000/- to Rs. 2,00,000/-. Simply because the Appellant has referred to an application, which he had filed on 09.05.2026 and which was not before the Tribunal for no fault of him the cost should not be enhanced.

12. Significantly, the waiver application being I.A. No. 188/ND/2026 which was moved for waiving of cost appears to have also not been considered on merits by the Tribunal as the same has been disposed of only on account of the fact that on earlier occasions i.e., on 17.03.2026 and 12.05.2026 the orders has been passed by the tribunal.

13. Keeping in view all the facts and circumstances of the case, we are of the considered view that there were no occasions before the tribunal to have imposed the cost of Rs. 1,00,000/- on 17.03.2026 or enhancing the same to Rs. 2,00,000/- on 12.05.2026. The cost must be imposed in appropriate cases for cogent reasons and not otherwise.

13. Keeping in view all the facts and circumstances of the case and for the reasons given herein before the appeal preferred by the Appellant is **allowed** and the cost of Rs. 1,00,000/- imposed by the tribunal vide order dated 17.03.2026 which has been enhanced to Rs. 2,00,000/- vide order dated 12.05.2026 is hereby waived of.

14. There is No order as to costs.

15. Interim Application, if any, is also disposed of.