In the National Company Law Appellate Tribunal, Pricipal Bench, New Delhi

Case No : Restoration (AT) No. 11/2026 in Company Appeal (AT) (CH) (Ins) No. 57/2026 (IA Nos. 144, 145, 146 & 147/2026)

Commissioner Of Customs (Preventive) — APPELLANT

Vs

M/s. Thiru Arooran Sugars Ltd., Czarnikow Group Limited, M/s. Kals Distileries Pvt Ltd. — RESPONDENT

Date of Decision : 07-07-2026

Acts Referred:
Companies Act — Section 421
Companies Act, 2013
Code — Section 61, Section 61 (2), sub-section 2 of Section 61

Hon'ble Judges : Justice Sharad Kumar Sharma, J;Jatindranath Swain, J

Bench : Division Bench

Advocate : For Appellant : Mr. Rajendran Raghavan, Advocate; For Respondents : No Appearance

Final Decision : Restoration application rejected

Judgement

(Hybrid Mode) 07.07.2026: [Oral Judgment: Justice Sharad Kumar Sharma, Member (Judicial)]The chronology of dates in the instant Appeal reads as under: i) The impugned order was passed on 02.05.2022 in CP(CAA)/30(CHE)/2022 in CA(CAA)/113(CHE)/2021 in IBA/243/2019. ii) Appeal against the said order was filed by the Appellant under Section 421 of the Companies Act in Company Appeal (AT) (CH) No. 58/2023 on 07.03.2023. iii) The 90 days period allowed for filing of Appeals under Companies Act, 2013 expired on 31.07.2022. iv) The said Appeal filed under Section 421 of the Companies Act was barred by limitation. v) However the Company Appeal (AT) (CH) No. 58/2023, was dismissed by us, holding it to be not maintainable under Section 421, by an order passed by us on 30.08.2025, leaving it open for the Appellant to invoke the Appellate, provision contained under Section 61 in accordance with law. vi) Reference to "in accordance with law" would include the question of maintainability of an Appeal under Section 61 of the Code, subject to the conditions that it is permissible as per the law of limitation. vii) Here too, the Appellant has derelicted in its obligation to file the Appeal in time. Since we had passed the order on 30.08.2025, the Appeal ought to be filed on 14.10.2025, (within 45 days). viii) The Appellant has filed the instant Company Appeal on 19.12.2025, much after the expiry of 45 days period. ix) The registry has reported that, since the Appellant gives a challenge to the impugned order of 02.05.2022, by filing of the Company Appeal on 19.12.2025, by invoking the provisions contained under Section 61, the Appeal is to be considered to have been filed with a delay of 1297 days. This is not condonable under the proviso to Section 61 (2) of the Code, and its because of this reason we had dismissed the Company Appeal on 30.01.2026 on the ground of limitation. Today before us for consideration, is the restoration application, being Restoration (AT) No. 11/2026. First of all, there is no scope of restoration of a matter when the order has been passed on merits, and the same is not maintainable, as it amounts to reconsideration on merits, after considering the aspect of delay on 30.01.2026 and that too, under whatsover pretext that, there is change of Counsel, or for any other reasons given in the application, that is not perceived to be carved as an exception under the proviso to sub-section 2 of Section 61. Hence, we don't think it is a fit case to pass any orders on the restoration application, seeking recall of the order dated 30.01.2026 passed on merits. The restoration application is misconceived and the same is accordingly rejected. **[Justice Sharad Kumar Sharma] Member (Judicial) [Jatindranath Swain] Member (Technical)**

FOOTNOTES

1. YS/MS/AK