NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 1184 of 2025
&
I.A. No. 4626 of 2025

IN THE MATTER OF:

Kuber Infrastructure Realities LLP **...Appellant**

Versus

CNX Corporation Ltd. **...Respondent**

Present:

For Appellant	**:**	Mr. Samanth Rekhi and Mr. Aakash Khattar, Mr. Rakesh Kumar, Mr. Preeti Kashyap, Mr. Ankit Sharma, Mr. Sumit Kumar and Mr. Pulkit Mehrotra, Advocates
For Respondent	**:**	None

O R D E R
(Hybrid Mode)

22.07.2026 The Appellant, had filed a CP under Section 7 of the Code before NCLT Mumbai. It is brought to our notice that the CP was rejected under Rule 63 of NCLT Rules 2016 with the following order:

> "*Order*
> *Date: 11.04.2025*
>
> *Read the application, supported by an affidavit. The Advocate on record did not clear the defects that were issued in the subject matter on 26.10.2023.*
>
> *The present application under Rule 63, NCLT Rules 2016 is filed seeking condonation of 321 days' delay on 05th March 2025.*
>
> *It is stated in the present application that the earlier Advocate failed to comply with the objection raised within the stipulated time, and as a consequence, the captioned application came to*

be rejected at the filing stage. It is evident that the Advocate who attached the Vakalatnama afresh to the present application is the same Advocate who has filed Company Petition <u>(Filing) No. 2709138058382023</u> on 05.03.2025.

It is thus clear that the Advocate who has filed the present application under Rule 63 of NCLT Rule 2016 is the one who is on record since 13.07.2023, i.e., the date of filing

There is no satisfactory explanation for filing an application under Rule 63 of NCLT Rules, 2016, for a huge delay of more than 321 days after intimating defects to the Petitioner. The petitioner's approach is very casual and does not satisfy the delay in moving the present application.

There being no merits in the application, the same stands rejected."

2. The Appellant claims that the defects, which were pointed out were mainly related to the filing of the NESL certificate. The Appellant has placed an affidavit to show that there was correspondence going on between the registry and the Appellant, through which the Appellant claims to establish that they were trying to convince the registry of NCLT, that the NESL certificate is not mandatory and they will satisfy the tribunal in respect of the existing debt and default.

3. In this appeal, despite notices, the Respondent had not appeared and hence the proceedings were initiated ex-parte, as per order dated 31.01.2026.

4. We have heard the counsel of the Applicant and we find that Section 7 application was dismissed due to failure to comply with the objection raised within the stipulated time, which was mainly related to the non-availability of the NESL certificate, which was treated as a mandatory requirement. We have also gone through the material placed on record. We find that the applicant claim, that it is not a mandatory requirement and the NCLT could have heard the CP on merit to establish their claim of debt and default. We find that there is enough merit in the appeal and we therefore allow the appeal. Thus, we set aside the impugned order dated 11.04.2025 and we grant the relief set out at (b) which reads as follows:

> *"b. Allow the Application filed by the Appellant under Rule 63 of the NCLT Rules, 2016 and direct the Ld. Registry of the NCLT, Mumbai Bench to reopen the e-filing portal to enable the Appellant to refile the Company Petition under Section 7 of the Insolvency and Bankruptcy Code, 2016;"*

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Arun Baroka]
Member (Technical)

[Indevar Pandey]
Member (Technical)

pks/rr