

(2026) 04 NCLAT CK 1937

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

Case No : Company Appeal (AT) (Insolvency) No. 148 of 2026 & I.A. Nos. 284, 553 of 2026

Sanjay Pandurang Kalate, Suspended Director Of Envirant Developers Pvt. Ltd APPELLANT

Vs

Jayesh Natvarlal Sanghrajka, Resolution Professional Of Envirant Developers Pvt. Ltd. & Ors. RESPONDENT

Date of Decision : 21-04-2026

Acts Referred:

Citation : (2026) 04 NCLAT CK 1937

Hon'ble Judges : Ashok Bhushan, Chairperson;Indevar Pandey, Member (Technical)

Bench : Division Bench

Advocate : For Appellant : Mr. Abhishek Anand, Mr. Kaushal Bansal, Ms. Palak Kalra, Advocates.??For Respondents : Mr. Amir Arsiwala, Ms. Neha Arya, Advocate for R-1.??Mr. Abhijeet Sinha, Sr. Advocate with Mr. Vishesh Kalra, Ms. Simran Shadija, Ms. Heena Kochar, Advocates for R-2.??Mr. Varun Klara, Mr. Samir Mlaik, Mr. Shahan Ulla, Advocates for R-3.

Final Decision : Dismissed

Judgement

Ashok Bhushan, J.

IA No.284 of 2026 : This is an application filed by the Appellant praying for condonation of refiling delay of 136 days in refiling of the Appeal.

2. Brief background facts of the Appeal need to be noticed:

(i) The Appellant is a Suspended Director of the Corporate Debtor ("CD") – Envirant Developers Pvt. Ltd. The Corporate Insolvency Resolution Process ("CIRP") against the CD commenced vide order dated 19.05.2023 of the Adjudicating Authority. The Appellant filed Company Appeal (AT) (Ins.) No.742 of 2023 before this Tribunal challenging the admission order of Company Petition and initiation of CIRP, which Appeal was dismissed on 05.10.2023.

(ii) The Appellant also filed an IA No.2002 of 2023 before the Adjudicating Authority, alleging that insolvency petition by Respondent was initiated in alleged collusion with certain individuals, which application although initially dismissed by the Adjudicating Authority, against which an Appeal filed before this Tribunal was also dismissed. But under orders of the Hon'ble Supreme Court, the Company Appeal (AT) (Ins.) No.1209 of 2023 was heard and this Tribunal set aside the orders of the Adjudicating Authority and granted the liberty to the Appellant to approach the Adjudicating Authority afresh for appropriate relief. In exercise of liberty granted on 19.04.2024, the Appellant filed IA No.3960 of 2024 before the Adjudicating Authority in the main Company Petition. The said application remained pending and was heard on several occasions.

(iii) The Resolution Plan submitted by Respondent was approved by Committee of Creditors ("**CoC**") with 100% vote share and IA No.06 of 2024 was filed by the Resolution Professional ("**RP**") for approval of the Plan.

(iv) By the impugned order in the present Appeal dated 25.06.2025, the Resolution Plan has been approved by the Adjudicating Authority. Aggrieved by which order, this Appeal was filed by the Appellant.

3. This Appeal has been filed by the Appellant on 06.08.2025. There being delay in refiling of the Appeal, the Appellant has filed IA No.284 of 2026 seeking condonation of refiling delay of 136 days (which as per the Registry the delay is of 140 days). Notices were issued in the application, in response to which reply has been filed by Respondent Nos.1 and 2.

4. In the reply filed by Respondent No.1, Respondent No.1 has given details of the proceedings and has brought on the record various orders passed by Adjudicating Authority in IA No.3960 of 2024, where Appellant did not complete the hearing in the application and sought several adjournments.

5. Respondent No.2 in its reply has submitted that the Resolution Plan, which was approved by the Adjudicating Authority on 25.06.2025 has already been implemented as far back as on 12.07.2025 and the Appeal itself has become infructuous. There is no proper explanation in the application for condonation of huge delay. The Appellant has filed a defective Appeal and inspite of repeated notifications, the Appellant was not diligent or interested in removing the defects within the time bound manner.

6. We have heard learned Counsel for the Appellant as well as learned Counsel appearing for Respondents.

7. Learned Counsel for the Appellant in support of the application submits that the Appeal was initially filed on 06.08.2025 and defects were informed on 11.08.2025 and due to complexity of matter and bulky set of documents, the Appellant refiled the matter on four occasions. The Appellant is based in Pune and faced logistical difficulties in procuring legible copies of documents. In Paragraphs (ii) and (iii), the Appellant has given following reasons for delay:

"ii. That challenging the impugned order, the instant Appeal was initially filed on 06.08.2025 and defects were notified on 08.08.2025, with a period of seven days granted for removal of defects, expiring on 15.08.2025. Due to the complexity of matter and bulky set of documents the Applicant, however, re-filed the matter on four occasions being 22.08.2025, 26.09.2025, 22.10.2025 and 15.11.2025. The delay occurred as the Appellant, who resides in the Pune, faced logistical difficulties in procuring legible copies of documents and transmitting the same to the Applicant at Delhi. Owing to the said bona fide circumstances, the delay in re-filing is neither deliberate nor intentional.

iii. Further, the delay of 136 days in the present matter has occurred on account of intervening holidays due to Diwali, coupled with Chath Pooja and Sundays, which rendered the offices closed which thereby further contributed to the delay."

8. Respondent No.2 in its reply has pleaded that the Appellant has repeatedly attempted to delay the matter. In Paragraph 8 to 11 and 18 of the reply, Respondent No.2 pleaded following:

"8. Since, there is no valid and cogent reason for condoning delay, there is no sufficient cause for condoning such delay. Further, in the strict timeline of IBC there cannot be any sufficient cause in these facts. The order impugned in the Appeal is a plan approval order dated 25.06.2025. This order already stands implemented as far back as on 12.07.2025 and therefore the Appeal itself is infructuous. It is respectfully submitted that once the plan is implemented, a time barred and an egregiously delayed appeal ought not to be considered and no delay be condoned for such an Appellant.

9. On several occasions, the Ld. NCLT recorded observations regarding the alleged dilatory conduct of the Appellant, as reflected in its orders dated 24.04.2025, 02.05.2025, and 27.05.2025, wherein it was noted that the Appellant had sought time and adjournments during the proceedings. Even after taking time, the Appellant has not even been present for hearings. In view of the said conduct as recorded by the Ld. NCLT, the Appellant is not entitled to any discretionary or equitable relief from this Hon'ble Tribunal.

10. In fact, even before the Ld. NCLT, the only attempt by the Appellant is to delay the proceedings. The Appellant has repeatedly taken attempts to delay the matter and essentially waste the courts time. The conduct is evident from the order dated 16.12.2024, where the Appellant was engaging in dilatory tactics to delay the hearing, knowing fully well that the record as sought to be presented was not available. This needs to be seen in the present context where the Appellant has refiled the appeal after a delay of 136 days, in an appeal which was otherwise filed with a delay of 12 days.

11. The plan process was fully to the knowledge of the Appellant, who claims to be the erstwhile promoter of the Corporate Debtor, now post resolution, a revived company under the management and control of the Respondent No.2.

18. With respect to paragraph 2(ii), the Respondent denies all averments made therein. The Applicants have failed to provide any particulars or basis as to why such defects were raised by the Registry or why it took the Appellant such an inordinate period to cure the same. There is no explanation whatsoever specifying the number of days of delay, nor is there any explanation for each day's delay, which is mandatory in law. The Appellant cannot take advantage of the fact that it initially filed a defective appeal. The Registry notified five sets of defects on 08.08.2025, 22.08.2025, 26.08.2025, 22.09.2025, 25.10.2025 and 15.11.2025. Despite such repeated notifications, it appears that the Appellant was not diligent or interested in removing the defects within a time-bound

manner.”

9. The Appeal filed by the Appellant was an Appeal challenging order of approval of Resolution Plan. The Appeal although was filed on 06.08.2025 and defects were notified on 11.08.2025, but the Appellant took several months in removing the defects. Rejoinder affidavit has been filed by the Appellant, where the Appellant has sought to explain the date of defect, nature of defects raised and the steps taken by the Appellant in Paragraph-6.

10. Shri Abhijeet Sinha, learned Senior Counsel appearing for Respondent No.2 has placed reliance on judgment of the Hon’ble Supreme Court in **Civil Appeal No.11827 of 2025** in **Abhijit Realtors and Infraventures Pvt. Ltd. & Anr. vs. Rohit Mehra & Anr.**, in which case, the Hon’ble Supreme Court observed that the Resolution Plan having been acted upon and implemented, the Appeal is to be dismissed. It is useful to quote entire order dated 19.03.2026 of the Hon’ble Supreme Court, which is as follows:

“We find from the record that the resolution plan in the case on hand was approved by the adjudicating authority on 06.05.2024 and the appeal filed against such approval was dismissed by the National Company Law Appellate Tribunal, Principal Bench, New Delhi, on 23.12.2024.

Though the present appeal was filed before this Court on 24.12.2023, that is, just one day later, the same was defective and it came to be re-filed with a delay of 100 days. The matter was put up before the Court only on 23.05.2025, on which day the delay was condoned and notice was issued.

However, we find that even before the issuance of notice in this matter, the resolution plan was acted upon and implemented, whereby the monies due payable thereunder were paid to the financial creditors and other stakeholders on 07.04.2025 itself.

Given this fact, we see no purpose in going into the merits of the matter at this late point of time. On this short ground, the appeal is dismissed.

Pending application(s), if any, shall stand disposed of.”

11. We are conscious that in the present application, the Appellant has prayed for condonation of delay in refiling. Learned Counsel for the Appellant has also placed reliance on the judgment of this Tribunal and various orders of this Tribunal, where this Tribunal has condoned the refiling delay in the facts of the said cases. Reliance has also been placed on the judgment of the Hon’ble Supreme Court in **Civil Appeal No.5106 of 2025 – CA Ramachandra Dallaram Choudhary vs. Adani Infrastructure & Developers Pvt. Ltd.**, where the Hon’ble Supreme Court condoned the refiling delay. The Hon’ble Supreme Court has held that sufficient cause has to be construed liberally in the interest of justice. In Paragraph-10, following was observed:

“10. Having regard to the fact that the appellant despite limitations had done all that was necessary for filing of the appeal within 30 days, and then 15 days, i.e., within the prescribed and extended period of limitation, respectively, as well as dependency of the appellant on its lawyers who, in turn, were dependent on their clerk to re-file the appeal, and there were some missteps contributing to the present situation, coupled with the fact

that the issue sought to be raised by the appellant in the appeal filed before the NCLAT, if answered in its favour, would ensure to the benefit of the debtors, and also that better justice is always achieved when a *lis* is decided on a contested hearing rather than on default, we need to take an overall view of the matter. We are of the considered opinion that the words "sufficient cause" in this case ought to have been construed liberally and that interest of justice would be best served if, upon condonation of delay in refiling of the appeal, the NCLAT proceeds with the hearing of the appeal on merits. Ordered accordingly."

12. There can be no dispute to the proposition of law that refiling delay in an Appeal has to be liberally construed. But when we look into the facts of the present case and explanation offered by the Appellant, specially the various litigations, which were undertaken by the Appellant – the Suspended Director of the CD as detailed in the Appeal itself and the fact that Resolution Plan was approved on 25.06.2025, which according to Respondent No.2 has been implemented on 02.07.2025, filing of the Appeal on 06.08.2025 was subsequent to the implementation of the Plan and apart from refiling delay, the Appeal was filed beyond 30 days with delay of 12 days. When the Appellant has filed the Appeal challenging the approval of the Resolution Plan, the Appellant has to be more vigilant in removing the defects, so that Appeal could be heard. In spite of defects being communicated to the Appellant on several occasions, the Appellant failed to take prompt action in clearing the defects. The reasons which have been given in Paragraph (iii) that delay of 136 days has occurred on account of intervening Diwali holidays, coupled with Chat Pooja and Sundays, which rendered the offices closed, thereby further contributing to delay, are general in nature, without any specific dates regarding Diwali holidays and other holidays. Defects were informed to the Appellant on four occasions. In the rejoinder affidavit, the Appellant has brought on record various defects communicated to the Appellant. The defects indicate that defects were intimated several times, which were not cured and defects also included that fee should be deposited as per the Appeal and Rs.1000/- for each IAs and the proof thereof. In the facts of the present case and nature of defects, which indicate that the Appellant was not vigilant in curing the defects, not depositing of the fee was a defect, which itself indicate that the Appellant was not serious in curing the defect.

13. Learned Counsel for the Appellant has relied on various orders of this Tribunal. Refiling delay in each case depends on the facts and sequence of events. In the facts of the present case, we are not satisfied that there is sufficient explanation given by the Appellant for condonation of inordinate delay of 136 days in refiling of the Appeal.

14. In view of the above discussion, application for condonation of refiling delay is rejected. Consequently, the Memo of Appeal is also rejected. There shall be no order as to costs.