

2. The order impugned was passed on 30.09.2024 and this appeal has been e-filed on 24.12.2024, there is a delay of 55 days in filing of the appeal.

3. Learned counsel for the appellant sought to contend that the order was not fully dictated on 30.09.2024 and Court only said that Court is inclined to allow the application.

4. A reply has been filed by the respondent to the delay condonation application, where respondent has referred to the minutes of the CoC dated 01.10.2024 where the order passed on 30.09.2024 has been noted. The minutes which has been recorded by the RP itself at Page 208 of the Appeal Paper Book records following:

“...the Hon'ble NCLT, the Counsel of the Resolution Professional and the Counsel of Mr. Ashok Kishanlal Sharma and Mr. Kishanlal Sharma and considering the Judgment dated 17.12.2021 passed by the Hon'ble NCLAT in Contempt Case (AT) No. 03 of 2020 in C.A. (AT) (I) No. 104 of 2019, the Hon'ble NCLT while allowing the Applications bearing I.A. No. 5721 of 2023 and I.A. No. 73 of 2024 filed by Mr. Ashok Kishanlal Sharma and Mr. Kishanlal Sharma respectively, before the Hon'ble NCLT directed the Resolution Professional to pay the Corporate Insolvency Resolution Process Costs to Mr. Ashok Kishanlal Sharma and Mr. Kishanlal Sharma in terms of the provisions of the Code and the Regulations made thereunder.”

5. The RP in the minutes have clearly stated that NCLT while allowing the application has issued direction to RP to pay the CIRP cost to Mr. Ashok Krishanlal Sharma and Mr. Krishan Lal Sharma.

6. We fail to see any substance in submission of the appellant that order was not fully dictated. The affidavit filed in a reply states that order was dictated in the Court. When the order was dictated in the open Court, the limitation shall begin to run on the next date and the delay in filing of the appeal is 55 days.

7. Learned counsel for the appellant sought to contend that impugned order was uploaded subsequently hence he can rely on the judgment of the Hon'ble Supreme Court in the matter of '**Sanjay Pandurang Kalate' Vs. 'Vistara ITC (India) Ltd. & Ors.'** in **Civil Appeal Nos. 7467-7468/2023.** '**Sanjay Pandurang Kalate' (Supra)**, was a case where Hon'ble Supreme Court took the view that when no substantive order was passed on the date, the date of uploading order shall be treated to be date of order and the limitation can be given. Present case the facts are entirely different, order was dictated in the open court which has been captured by the RP in its minutes of the next date, dated 01.10.2024 and the submission in the delay condonation application that no order was dictated in the open court is contrary to own minutes of the RP recorded on 01.10.2024.

8. We, thus are of the view that limitation shall commence on 01.10.2024 itself and appeal having been filed beyond condonable period, the delay condonation applications cannot be allowed.

Delay condonation applications rejected. Memo of appeal is also rejected.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

**[Arun Baroka]
Member (Technical)**

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