NATIONAL COMPANY LAW APPELLATE TRIBUNAL

CHENNAI BENCH

APPELLATE JURISDICTION

25.09.2026

Present: JUSTICE N. SESHASAYEE, MEMBER (JUDICIAL)

JATINDRANATH SWAIN, MEMBER (TECHNICAL)

IA No. 105 / 2026
in
Company Appeal (AT) (CH) (Ins) No. 45 / 2026
(IA Nos. 104, 106 & 107 / 2026)

In the matter of:

Lulu India Shopping Mall Private Limited ... Appellant

Vs

Katerra India Private Limited & Anr. ... Respondents

WITH

IA No. 189 / 2026
in
Company Appeal (AT) (CH) (Ins) No. 72/2026
IA Nos. 186, 187 & 188 / 2026

In the matter of:

Lulu IT Infrabuild Pvt. Ltd. ... Appellant

Vs

Katerra India Pvt. Ltd.
Through its RP, Mr. Pankaj Srivastava & Anr. ... Respondents

Present:

For Appellant	:	Mr. R. Sankaranarayanan, Senior Advocate For Mr. Pradeep Joy, Advocate
For Respondents	:	Mr. Abimanyu Bhandari, Senior Advocate For Ms. Priyadharshini S, Advocate for R2

ORDER
(Hybrid Mode)

[Per: Jatindranath Swain, Member (Technical)]:

1. The Appellants herein are sister-companies with the same promotors at the helm of their affairs, and they as Operational Creditors of the same Corporate Debtor (Katerra India Private Limited) challenge the order dated 20.11.2025, passed in IA(IBC)(Plan)/08/BB/2024 in CP(IB)74/BB/2023, whereby the Ld. NCLT has approved the resolution plan submitted by Nalwa Steel and Power Limited in two separate appeals. However, in preferring these appeals there has intervened a delay of 14 days in each of these appeals, for condoning which the Appellant has taken out separate applications in IA No.105/2026 in CA (AT) (CH) (Ins) No.45/2026 and IA No.189/2026 in CA (AT) (CH) (Ins) No.72/2026.

2. The relevant dates as stated by the Appellants are noted hereunder:

Date of pronouncement of the Order	20.11.2025
Date on which the Order made available on website	24.11.2025
Date of e-filing of appeal before this tribunal	03.01.2026
Last date for filing of appeal	20.12.2025
The last date on which the appeal can be filed within the condonable period under section 61	04.01.2026

3. The Ld. Counsel for the Appellant has submitted that while the last date for filing the appeal was 04.01.2026, the appeals were filed on 03.01.2026, which very obviously is within the condonable period under Section 61 of the IBC. So far as the reasons for condonation of delay is concerned, it is that due to festival season of Christmas and New Year, only limited key personnel were available in appellants' organization to prepare the appeals. Besides this, their Advocate also sought certain critical information on facts for preparing the appeals, and took some time for the execution of certain affidavits. Further, the process required multiple levels of internal approvals, and all these cumulatively led to a delay of 14 days. Ld. Counsel for the Appellant has pleaded that the delay is within the condonable period and that the delay, being neither wanton nor deliberate, may be condoned.

4. Per contra, the Ld. Counsel for the Respondent has submitted that:

a) The appeal was e-filed on 03.01.2026 but the verification affidavit accompanying the appeal was notarized at Ernakulam while the executant of the same was at Lucknow at the time of notarization.

b) Secondly, when the appeals were filed, they were not accompanied by stamp paper of requisite value. The stamp paper was obtained subsequent to filing of appeal.

c) The verification affidavits are dated 05.01.2026, whereas the date of filing of appeal is 03.01.2026. Even the affidavit filed in support of the applications for the condonation of delay were filed only on 06.01.2026, which very evidently is subsequent to the date of filing of appeal. He contends that though the Appellant is aware of mandatory filing of stamp paper while an appeal is filed on 03.01.2026, he has not diligently filed the same and hence the appeal itself is non-est in the eyes of law.

d) As per Rule 22(2) of NCLAT Rules, every appeal shall be accompanied by a certified copy of the impugned order, but the instant appeals have not been filed along with the certified copies of the impugned order. The appeals are therefore, wholly incompetent;

e) The cause shown for condonation of delay is not acceptable.

<u>DISCUSSION AND DECISION:</u>

5. Heard Ld. Counsels for both the parties. The appeals were e-filed on 03.01.2026 and were scrutinized duly on 06.01.2026. During the scrutiny, certain defects were raised by the Registry regarding the filing of appeal on a non-judicial stamp paper, delay in filing of the appeal, non-furnishing of the certified copy of the impugned order and few others. These defects were rectified and the same were re-filed on 12.01.2026. Upon refiling of these company appeals, it is seen that they were accompanied with proper affidavits and the Interlocutory Applications seeking exemption from filing certified copy of the impugned order and seeking condonation of delay in filing of the appeals.

6. As regards the allegation that the appeals were without the applications for exemption from filing certified copy at the time of original filing, it is seen that the said appeals have been re-filed after rectifying the defects and the re-filed appeals contain the exemption applications, being IA

No.107/2026 and IA No.186/2026, in the respective appeals. The Respondents contend that these applications were not accompanying the appeals that were filed on 03.01.2026 and hence the appeals are not valid appeals in the eyes of law. They have relied on the ratio of the Hon'ble Apex court in ***Angelwoods Apartment Allottees Association v. M. Lalitha & Anr.*** **[(2026) SCC Online SC 846]** where the Hon'ble Apex Court has held that, an appeal which does not satisfy the essential requirements for institution cannot be treated as a valid appeal merely because the defects are subsequently cured. The facts and circumstances of the case on hand is different from the ***Angelwoods case***. In the said case[1] the Respondent had not filed an exemption application or the certified copy when the appeals were taken up for consideration. Further, the delay in refiling the appeal was that of 150 days. But the Appellant herein has filed exemption applications before the matter was taken up for hearing during the re-filing of the appeals and refiling of appeal was completed by 12.01.2026, a mere 8 days after the 45-day period. The said defect is a curable defect and has been rectified promptly. Thus, the aforesaid objection in respect of non-filing of the exemption applications within the limitation period is answered in favour of the Appellant.

7. As regards the allegation that the appeals were filed without stamp paper of requisite value, it is found that the stamp paper on which the affidavits in the condone delay applications IA No.105/2026 in CA (AT) (CH) (Ins) No.45/2026 and IA No.189/2026 in CA (AT) (CH) (Ins) No.72/2026

[1] *Angelwoods Apartment Allottees Association v. M.*Lalitha & Anr. [(2026) SCC Online SC 846]

have been executed are dated 03.01.2026 and 05.01.2026, respectively. The dates of filing of these condone delay applications are 12.01.2026 and 10.01.2026, respectively. The stamp paper filed in both these appeals are prior to the date of filing of the application. But in CA (AT) (CH) (Ins) No.45/2026, the stamp paper in verification affidavit to the appeal is dated 05.01.2026 and date of filing of appeal is 03.01.2026. However, the stamp paper in CA (AT) (CH) (Ins) No.45/2026, which is subsequent to date of filing of appeal does not make the appeal invalid because when the e-filed appeal was scrutinized, the defects were raised by the Registry of the tribunal, stating that, *"3. Affidavit has to be preferred in non-judicial stamp paper".* The Appellant while refiling the appeal on 12.01.2026 has cured the defect by filing of the non-judicial stamp paper dated 05.01.2026 thereby making the affidavit valid in the eyes of law.

8. With regard to issue of lack of proper notarization, it is seen that the Appellant has e-signed the appeal from Lucknow on 03.01.2026 and got it notarized at Ernakulam, Kerala, through his counsel who is also located in Ernakulam. As per law, the notarization ought to be done before any notary where the Appellant resides and the Appellant ought to have been physically present for his identification and verification of signature which is the very purpose of notarization. Ld. Counsel for the Appellant states that since the Appellant has e-signed the appeal papers and his counsel has also authenticated the same, the defect as such is not a fatal one as the counsel identified and authenticated the documents before the notary. We find that even if it is treated as a defect, it is only a curable defect as not having been

done intentionally which went unnoticed because the Registry did not raise any defect regarding the same. Procedure is only a handmaid of justice as held by the Hon'ble Supreme Court of India in the matter of ***Uday Shankar Triyar V. Ram Kalewar Prasad Singh & Anr.*** **[Civil Appeal No.6701 of 2005]**. We hold that the objections raised by the Respondent are only procedural in nature and the defects can be cured. Accordingly, in the interest of justice, this Appellate Tribunal is of the view that, the Appellant having filed the appeal within the upper limit of the condonable period, the Appellants are given liberty to file a fresh affidavit with the valid notarization.

9. Owing to the aforesaid, the delay that has chanced in preferring the appeals stands condoned.

10. List these appeals on **07.10.2026**.

[Justice N. Seshasayee]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

AR/MS/AK