

IBC DOSSIER

Bulletin on Landmark Judgments under IBC, 2016



Ashok Tiwari vs. Tattva & Mittal

Brief Facts

The present appeal, filed under Section 61 of the Insolvency and Bankruptcy Code, 2016 (IBC, 2016), is brought by Mr. Ashok Tiwari against an Impugned Order dated 21.03.2023, along with an Order dated 17.01.2023 issued by the National Company Law Tribunal, Mumbai Bench.

The Appellant's application, labeled C.P. (IB)/642(MB)/2022, was initially dismissed as not maintainable due to a default excluded by Section 10A of the IBC, 2016. The Appellant applied for rectification of the said Order, which was partially allowed on 21.03.2023.

Decision

The Respondents contest the appeal's maintainability, citing a limitation under Section 61(2) of the IBC, 2016, arguing that the Appellant did not file an appeal against the substantive Order dated 17.01.2023 within the stipulated timeframe. The Appellant asserts that the appeal filed on 12.05.2023 falls within 30 days from the Impugned Order dated 21.03.2023, excluding the time needed to obtain a certified copy.

The Appellant also referred to relevant legal provisions and past judgments to support the exclusion of the period spent obtaining the certified copy. Consequently, the Tribunal concludes that the appeal was filed within time and directs the Adjudicating Authority to consider the Financial Creditor's application under Section 7, treating it as outside the scope of Section 10A of the IBC, 2016. The case is allowed and disposed of without costs.

Link of the Order

<https://ibbi.gov.in/uploads/order/7b3ac0607660cdced31837ebc556feca.pdf>



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