

ITEM NO.3

Court 6 (Video Conferencing)

SECTION XVII

**S U P R E M E C O U R T O F I N D I A**  
**RECORD OF PROCEEDINGS**

Civil Appeal No.3327/2020

**V NAGARAJAN**

**Appellant(s)**

**VERSUS**

**SKS ISPAT AND POWER LIMITED & ORS.**

**Respondent(s)**

**(With appln.(s) for IA No.98896/2020-EXEMPTION FROM FILING  
AFFIDAVIT and IA No.98894/2020-PERMISSION TO APPEAR AND ARGUE IN  
PERSON)**

**Date : 18-12-2020 This appeal was called on for hearing today.**

**CORAM :**

**HON'BLE DR. JUSTICE D.Y. CHANDRACHUD  
HON'BLE MS. JUSTICE INDU MALHOTRA  
HON'BLE MS. JUSTICE INDIRA BANERJEE**

**For Appellant(s)      Mr. R. Subramaniam, Adv.  
                                 Mr. Vipin Kumar Jai, AOR**

**For Respondent(s)    Mr. Neeraj Kishan Kaul, Sr. Adv.  
                                 Mr. Atul Shanker Mathur, Adv.  
                                 Ms. Priya Singh, Adv.  
                                 Ms. Deepabali Datta, Adv.  
                                 M/s. Khaitan & Co.**

**UPON hearing the counsel the Court made the following  
O R D E R**

- 1      Mr R Subramaniam, learned counsel appearing on behalf of the appellant has relied on the provisions of Section 420(3) of the Companies Act 2013, under which an obligation has been cast on the NCLT to provide a copy of its judgment or order to the parties to a proceeding. In the present case, it is undisputed that the order was pronounced in open court on 31 December

2019. The order was uploaded on the website on 11 March 2020 but with an incorrect bench composition. On 20 March 2020 a corrected copy of the order was uploaded on-line, which was downloaded by the appellant. In the meantime, it has been submitted that on 15 March 2020, this Court passed a general direction, in the exercise of its jurisdiction under Article 142 of the Constitution, extending the period of limitation in view of the onset of the Covid-19 pandemic. The appeal was filed on 8 June 2020. It has been submitted that the appellant is entitled to the benefit of the direction of this Court. Mr Subramanian has also relied on the provisions of Section 12 of the Limitation Act 1963. While the learned Counsel accepts that the appellant did not apply for a certified copy, the submission is that where a statute requires a free copy of a judicial order to be supplied to a party, there is no need to apply for a certified copy and the period of limitation will not begin to run until (in this case) the copy under S 420(3) is received.

- 2 Opposing these submissions, Mr Neeraj Kishan Kaul, learned senior counsel appearing on behalf of the respondent submits that under Rule 22 of the NCLAT Rules, every appeal is required to be accompanied by a certified copy and it has been admitted that no application for a certified copy was made by the appellant. It has been submitted that the period of 45 days prescribed under Section 61 of the IBC (thirty days extendable to no more than fifteen days) expired much before the order of this Court dated 15 March 2020. Mr Kaul also urged that a party which does not apply for the issuance of a certified copy, which is a requirement under Rule 22 of the Rules, would not be able to obviate the limitation prescribed in Section 61. The submission is that the IBC lays down strict timelines and the submission of the appellant will defeat the provisions of the statute.
- 3 Since the issue would require to be resolved, issue notice, returnable on 9 February 2021.
- 4 Mr Neeraj Kishan Kaul, learned senior counsel accepts notice on behalf of the respondent No 10. Counter affidavit be filed within a period of four weeks from today.

- 5 Dasti, in addition, is permitted on the other respondents.
- 6 List the Civil Appeal on 9 February 2021 for final disposal.

**(CHETAN KUMAR)**  
**A.R. - cum - P.S.**

**(SAROJ KUMARI GAUR)**  
**Court Master**