

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

I.A. No. 2327 of 2025

In

Company Appeal (AT) (Insolvency) No. 605 of 2025

IN THE MATTER OF:

Directorate of Enforcement

...Appellant

Versus

**Anil Kumar Mittal,
Resolution Professional of
Varutha Developers Pvt. Ltd. & Ors.**

...Respondents

Present:

For Appellant : Mr. Zoheb Hossain, Mr. Vivek Gurnani, Mr. Pranjal Tripathi, Mr. Kund and Mr. Vivek Gaurav, Advocates.

For Respondents : Mr. Abhijeet Sinha, Sr. Advocate with Mr. Sumesh Dhawan, Mr. Shwetank Ghinodia, Ms. Mini Aggarwal and Mr. Athak Walia, Advocates for R-1.

Mr. Arun Kathpalia, Sr. Advocate with Ms. Ruby Singh Ahuja, Ms. Aakriti Vohra, Ms. Roopali Gupta and Ms. Varsha Himatsingka, Advocates for R-2.

Mr. Krishnendu Datta, Sr. Advocate with Mr. Yash Tandon, Advocate for CoC.

O R D E R

ASHOK BHUSHAN, J.

This is an application praying for condonation of delay in filing of the appeal.

2. The prayers in the applications are as follows:

“a) Condone the delay of 14 days in filing the present Appeal against the impugned order dated 07.01.2025 passed by the National Company Law Tribunal, Kolkata Bench (Court-II) in LA. (IB) (Plan) No. 21/KB/2024 in Company Petition (IB) No. 26/KB/2023:

b. Without prejudice condone the delay of 62 days in filing the present Appeal from the date of the Impugned Order dated 07.01.2025 as directed to be added in the Prayer clause by the Registry.

c. Pass any such order this Hon'ble Court may deem fit and Proper.”

3. The appeal has been filed by the appellant under Section 61 of the Insolvency and Bankruptcy Code, 2016, (for short the ‘Code’ or the ‘IBC’), challenging the order dated 07.01.2025 passed by the adjudicating authority (National Company Law Tribunal, Division Bench, Court – II, Kolkata) in I.A. IB Plan No.21/2024 in C.P. (IB) No.26/KB/2023. By the impugned order, adjudicating authority has allowed the I.A. IB Plan 21/2024 filed by the Resolution Professional (RP) praying for approval of the resolution plan of the corporate debtor, Varutha Developers Private Limited. The Directorate of Enforcement aggrieved by the impugned order has e-filed this appeal on 09.04.2025. Physical copy of the appeal has also been filed on 09.04.2025. Limitation for filing an appeal under Section 61(2) of the IBC is 30 days which period is extendable for a further period of 15 days if the Tribunal is satisfied that there was sufficient cause for not filing the appeal within limitation. Section 61(2) is as follows:

“61. Appeals and Appellate Authority.

(2) Every appeal under sub-section (1) shall be filed within thirty days before the National Company Law Appellate Tribunal:

Provided that the National Company Law Appellate Tribunal may allow an appeal to be filed after the expiry of the said period of thirty days if it is satisfied that there was sufficient cause for not filing the appeal but such period shall not exceed fifteen days.”

4. Impugned order having been passed on 07.01.2025, 30 days period for filing the appeal came to an end on 06.02.2025. 15 days extendable period
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shall also come to an end on 21.02.2025. Appeal has been e-filed on 09.04.2025. The ground for delay condonation as mentioned in the application is that appellant, Directorate of Enforcement acquired knowledge of the order dated 07.01.2025 only on 25.02.2025 in the proceeding ongoing before the Ld. Appellate Tribunal PMLA. It was further pleaded that Enforcement Directorate (ED) was not party, hence the period of limitation required to be calculated from the date on which ED acquired knowledge of order dated 07.01.2025. In paragraphs 5 & 6 of the application, following has been pleaded:

“5. However, it is submitted that as the ED was not made a party the period of limitation is required to be calculated from the date on which the ED acquired knowledge that order dated 07.01.2025 has been passed by the Hon’ble NCLT.

6. It is respectfully submitted that the ED acquired acknowledge of the order dated 07.01.2025 on 25.02.2025 when the proceedings were going on before the Ld. Appellate Tribunal, PMLA. The same is evident from the order passed by the Ld. Appellate Tribunal, PMLA where for the first time the ED was made aware of such an order. Therefore, for the first time the ED was made aware of the Impugned Order on 25.02.2025.”

5. It is the case of the appellant that in event limitation is computed from the date of knowledge, i.e., 25.02.2023. 30 days period shall come to an end on 27.03.2025 and the appeal having filed on 09.04.2025, there is delay of only 14 days which is within condonable period and there being sufficient cause, the said delay be condoned. Alternative prayers have been made in the application as noticed above.

6. Learned counsel for the respondent refuting the submissions of the appellant submits that the computation of limitation for filing the appeal shall

commence from date of pronouncement, i.e., from 07.01.2025 and limitation is not dependent on the knowledge of the appellant. It is submitted that the appeal has been filed beyond condonable period i.e., 30 days + 15 days. It is submitted that the present appeal has been filed on 93rd day i.e., delay of 48 days which is well beyond 45 days outer limit and is not condonable. It is submitted that limitation of filing the appeal commences on the date of announcement and is not dependent on the knowledge of the appellant.

7. Learned counsel for the parties have placed reliance on the various judgements of this Tribunal and Hon'ble Supreme Court in support of their respective submissions, which shall be noticed hereinafter.

8. From the submissions of the learned counsel for the parties, following two issues arise for consideration:

- I. Whether in the facts of the present case limitation for filing the appeal under Section 61 of the IBC against the order dated 07.01.2025 shall commence from the date of knowledge of the impugned order by the appellant i.e., with effect from 25.02.2025;
- II. Whether the present appeal has been filed by the appellant within the condonable period i.e., 15 days after expiry of the limitation.

From the facts as noticed above, there are no dispute of facts, i.e., the date of pronouncement of the order is 07.01.2025, the appellants were not party to the proceeding before the adjudicating authority and the appellants claim knowledge of the order on 25.02.2025 on the basis of proceedings before the Appellate Tribunal PMLA.

Question No. I

9. The first question is as to what is the date of commencement of the period of limitation for filing an appeal under Section 61. Whether the limitation shall commence from the date of pronouncement of the order or from the date of knowledge of the appellant, especially when appellant was not party to the proceeding.

10. Learned counsel for the appellant in support of submissions has placed reliance on the three judgements of this tribunal namely, **‘Prateek Gupta’ Vs. ‘M/s. Columbia Petro Chem Pvt. Ltd. & Anr.’** reported in **[2018 SCC OnLine NCLAT 284]**, where in paragraph 2 following was held:

“2. The impugned order was passed on 25th January, 2018 but the appeal was filed on 26th March, 2018. However, in view of the fact that the Appellant is the Director and Shareholder of the Corporate Debtor and was not a party before the Adjudicating Authority by name, on the basis of date of knowledge of the Appellant, we find that the appeal is on time.”

11. Next judgement relied by the appellant is **‘Sunil Sanghvi’ Vs. Cytech Coatings Pvt. Ltd.’** reported in **[2018 SCC OnLine NCLAT 1049]**, wherein paragraph 2 following was held:

“2. It is submitted that the impugned order was not communicated to the Appellant and he having come to know, filed the appeal on 10th October, 2018. If limitation is counted from the date of knowledge, then there is no delay and otherwise there is a delay of 6 days if it is counted from the date of the impugned order.”

12. The next judgement relied by the appellant is **‘Anmol Tekriwal’ Vs. ‘M.N. Auxichen & Anr.’**, reported in **[2019 SCC OnLine NCLAT 63]**, wherein paragraphs 5 & 9, following has been held:

“5. It has not been disputed that the Appellant came to know of the impugned order when the ‘Operational Creditor’ forwarded the impugned order. The certified copy has not been forwarded. The appeal was thereafter filed on 13th September, 2018 and thereby delay of about 6 days in preferring the appeal. Taking into consideration the stand taken by the parties and being satisfied with the grounds, we condone the delay of 6 days in preferring the appeal.

9. This apart, there is nothing on the record to suggest that the copy of the impugned order was forwarded to the Appellant by the Adjudicating Authority or by the ‘Resolution Professional’. Even if it is accepted that certified copy is not sent to all the shareholders, but the date of knowledge is to be taken into consideration counting the period of limitation. It is not disputed by the ‘Operational Creditor’ that he forwarded the copy of the impugned order to the Appellant and therefore, we have accepted the period of the date of knowledge as pleaded by the Appellant, and condone the delay.”

13. This Tribunal in the above case has taken view that if the date of knowledge is taken into consideration, the delay is within condonable period.

14. Learned counsel for the respondent to the contrary has relied on the judgements of the Hon’ble Supreme Court and this Tribunal where it was categorically held that the date of knowledge of the order is not relevant and the limitation commences from the date of pronouncement of the orders. Reliance has been placed on the judgement of the Hon’ble Supreme Court in **‘Sapphire Technologies Pvt. Ltd.’ Vs. ‘Regional Provident Fund Commissioner & Anr.’**, [Civil Appeal No. 2212/2021], decided on 29.04.2022. In the above case, resolution plan was approved by the NCLT on 22.10.2019 and the appeal was filed by Regional Provident Fund Commissioner on 14.12.2020. NCLT issued notice in the appeal which issuance of notice was challenged before the Hon’ble Supreme Court. Submission of the parties was noticed in the above judgement in following words:

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“The appellant contends that an appeal against an order passed by the NCLT has to be filed within 45 days from the date of passing of the order. In support of the said contention, the appellant relied upon the judgment of this Court in Civil Appeal Nos.2943-2944 of 2020 etc. dated 10.03.2021 titled Kalpraj Dharamshi & Anr. vs. Kotak Investment Advisors Ltd. & Anr.

Learned counsel appearing for the respondent stated that period of limitation would start from the date of knowledge. Though, the claim was filed by Respondent No.1 before the Resolution Professional, it was not a party before the NCLT which passed the order approving the resolution plan. According to the learned counsel for 1st Respondent, he came to know about the order passed by the NCLT much later. Support was sought from a judgment of this Court in Raja Harish Chandra Raj Singh vs. Dy. Land Acquisition Officer [1962 (1) SCR 676] for submitting that provisions relating to limitation have to be given a liberal construction.”

15. Hon’ble Supreme Court accepted the submission of the appellant and set aside the order of this Tribunal holding that appeal was filed beyond condonable period, following was laid down by this Tribunal:

“The judgment that is relied upon by the Respondent No. 1 relates to Section 18 of the Land Acquisition Act. However, we are concerned with the limitation prescribed by Section 61 of the IBC which fell for consideration of this Court in Kalpraj Dharamshi (supra). In the said judgment, it was categorically held by this Court that an appeal against the order of NCLT shall be preferred within a period of 30 days from the date on which the order was passed by the NCLT. The Appellate Tribunal has the power to extend the period of limitation by another 15 days.

In view of the aforesaid judgment, we are of the considered view that the Appellate Tribunal committed an error in issuing notice in an appeal that was filed by Respondent No.1 with delay of 388 days.

The appeal is, accordingly, allowed. Pending application(s), if any, shall stand disposed of.”

16. Learned counsel for the respondent has also relied on the judgement of the Hon’ble Supreme Court in **‘Sanjay Pandurang Kalate’ Vs. ‘Vistara ITCL (India) Ltd. & Ors.**, reported in **[(2024) 3 SCC 27]**, wherein paragraph

16, Hon'ble Supreme Court held that limitation for filing an appeal under Section 61 of the IBC commences from the date of pronouncement of the judgement. In paragraph 16, following was held:

“16. From the above discussion of law, it is clear that the date on which the limitation begins to run is intrinsically linked to the date of *pronouncement*. The question that arises in the facts of the present case, therefore, is when is an order deemed to be pronounced. The National Company Law Tribunal Rules, 2016 (“the NCLT Rules”) provide guidance in this regard. Rule 89(1) of the NCLT Rules indicates that when Nclat registry publishes its cause-list, a distinction is drawn between cases listed for pronouncement of orders and other cases. It states as follows:

“89. Preparation and publication of daily cause-list.—(1) The Registry shall prepare and publish on the notice board of the Registry before the closing of working hours on each working day the cause-list for the next working day and subject to the directions of the President, listing of cases in the daily cause-list shall be in the following order of priority, unless otherwise ordered by the concerned Bench; namely—

- (a) cases for pronouncement of orders;
- (b) cases for clarification;
- (c) cases for admission;
- (d) cases for orders or directions;
- (e) part-heard cases, latest part-heard having precedence; and
- (f) cases posted as per numerical order or as directed by the Bench;”

(emphasis supplied)”

17. Learned counsel for the respondent has relied on a recent judgement of the Hon'ble Supreme Court in **‘Tata Steel Limited’ Vs. ‘Rajkumar Banerjee & Ors.’**, [Civil Appeal No. 408/2023], decided on 07.05.2025. Hon'ble Supreme Court in the above case had occasion to consider Section 61(2) of

the IBC and the question as to whether appeal filed by the respondent before the NCLT was within condonable period or not. In the above judgement, Hon'ble Supreme Court had occasion to notice earlier judgement of the Hon'ble Supreme Court including the judgement of the Hon'ble Supreme Court in '**V. Nagarajan' Vs. 'SKS Ispat & Power Ltd. & Ors.'** reported in **[(2022) 2 SCC 244]** and '**Sanjay Pandurang Kalate' (Supra)**, facts of the case have been noticed, two issues were framed, which has been noticed in paragraph 7 of the judgement, which is as follows:

"7. Having considered the arguments advanced and the documents on record, the central issues for adjudication are:

- (i) Whether the appeal filed by Respondent No. 1 was within the prescribed limitation period of 30 days, along with the additional condonable period of 15 days as provided under section 61(2) IBC; and
- (ii) If not, whether the NCLAT has the power to condone the delay beyond the said prescribed and condonable period under the IBC."

18. While considering Issue No. 1, the facts have been noticed in paragraph 9, which are as follows:

"9. In the present case, Respondent No. 1 e-filed appeal along with an application for condonation of delay before the NCLAT on 23.05.2022 and physically filed the same on 24.05.2022. The NCLAT allowed the application for condonation of delay by the order impugned herein. The appellant challenged the maintainability of the appeal on the ground that it was filed beyond the 45-day period prescribed under section 61(2) IBC – comprising a 30-day limitation period and a further 15-day condonable period – and was, therefore, time-barred. Whereas, according to Respondent No.1, although the resolution plan was approved by the NCLT on 07.04.2022, the intimation of the said approval was given to the listing departments of the BSE and NSE only on 08.04.2022; and he became aware of the approval on that date, as he was not a party to the petition filed under section 7 IBC. Accordingly, the 30-day limitation period for filing the appeal commenced on

08.04.2022 and was set to expire on 08.05.2022. However, since 08.05.2022 was a Sunday, by virtue of Section 4 of the Limitation Act, 1963, the prescribed period was extended to the next working day i.e., 09.05.2022 (Monday). Thereafter, the additional grace period of 15 days for seeking condonation of delay, as permitted under the proviso to Section 61(2) IBC expired on 24.05.2022. As Respondent No. 1 physically filed the appeal along with the condonation application on 24.05.2022, it was within the statutorily permissible period of 45 days. Hence, the appeal was not barred by limitation. The NCLAT rightly allowed the application seeking condonation of delay in filing the appeal.”

19. Hon’ble Supreme Court in paragraphs 10.3 & 10.3.1 while noticing the earlier judgement of the Hon’ble Supreme Court in **‘V. Nagarajan’ (Supra)** and **Sanjay Pandurang Kalate (Supra)**, made following observations:

“10.3. In *V. Nagarajan v. SKS Ispat & Power Ltd.*¹³, this Court provided crucial clarifications regarding the computation of limitation periods under the IBC. It was held that under section 61(2) IBC, the limitation period for filing an appeal to the NCLAT commences from the date of pronouncement of the order by the NCLT, not from the date when the order is received or made available to the aggrieved party. This Court further clarified that while Rule 22(2) of the NCLAT Rules mandates the filing of a certified copy of the impugned order along with the appeal, the limitation period is not contingent upon the receipt of such a copy. However, if an appellant applies for a certified copy, the time taken to obtain it can be excluded from the limitation period under section 12(2) of the Limitation Act. Thus, this decision underscores the IBC’s objective of ensuring timely resolution of insolvency proceedings and the parties are expected to act diligently and within the prescribed timelines, with limited scope for condonation of delay. The relevant paragraphs of the said decision read as under:

“24. *IBC is a complete code in itself and overrides any inconsistencies that may arise in the application of other laws. Section 61 IBC, begins with a non obstante provision— “notwithstanding anything to the contrary contained under the Companies Act, 2013” when prescribing the right of an aggrieved party to file an appeal before NCLAT along within the stipulated period of limitation. The notable difference between Section 421(3) of the Companies Act and Section 61(2) IBC is in the absence of the words “from the date on which a copy of the order of the Tribunal*

is made available to the person aggrieved” in the latter. The absence of these words cannot be construed as a mere omission which can be supplemented with a right to a free copy under Section 420(3) of the Companies Act read with Rule 50 of the NCLT Rules for the purposes of reckoning limitation. This would ignore the context of IBC's provisions and the purpose of the legislation.

31. ...A Person wishing to file an appeal is expected to file an application for a certified copy before the expiry of the limitation period, upon which the “time requisite” for obtaining a copy is to be excluded. However, the time taken by the court to prepare the decree or order before an application for a copy is made cannot be excluded. **If no application for a certified copy has been made, no exclusion can ensue.** In fact, the Explanation to the provision is a clear indicator of the legal position that the time which is taken by the court to prepare the decree or order cannot be excluded before the application to obtain a copy is made. It cannot be said that the right to receive a free copy under Section 420(3) of the Companies Act obviated the obligation on the appellant to seek a certified copy through an application. The appellant has urged that Rule 14 of the NCLAT Rules empowers NCLAT to exempt parties from compliance with the requirement of any of the rules in the interests of substantial justice, which has been typically exercised in favour of allowing a downloaded copy in lieu of a certified copy. While it may well be true that waivers on filing an appeal with a certified copy are often granted for the purposes of judicial determination, they do not confer an automatic right on an applicant to dispense with compliance and render Rule 22(2) of the NCLAT Rules nugatory. The act of filing an application for a certified copy is not just a technical requirement for computation of limitation but also an indication of the diligence of the aggrieved party in pursuing the litigation in a timely fashion. In a similar factual scenario, NCLAT had dismissed an appeal as time-barred under Section 61(2) IBC since the appellant therein was present in court, and yet chose to file for a certified copy after five months of the pronouncement of the order.

33. The answer to the two issues set out in Section C of the judgment—(i) when will the clock for calculating the limitation period run for proceedings under IBC; and (ii) is the annexation of a certified copy mandatory for an appeal to NCLAT against an order passed under

*IBC — must be based on a harmonious interpretation of the applicable legal regime, given that IBC is a Code in itself and has overriding effect. Sections 61(1) and (2) IBC consciously omit the requirement of limitation being computed from when the “order is made available to the aggrieved party”, in contradistinction to Section 421(3) of the Companies Act. Owing to the special nature of IBC, the aggrieved party is expected to exercise due diligence and apply for a certified copy upon pronouncement of the order it seeks to assail, in consonance with the requirements of Rule 22(2) of the NCLAT Rules. Section 12(2) of the Limitation Act allows for an exclusion of the time requisite for obtaining a copy of the decree or order appealed against. It is not open to a person aggrieved by an order under IBC to await the receipt of a free certified copy under Section 420(3) of the Companies Act, 2013 read with Rule 50 of the NCLT Rules and prevent limitation from running. Accepting such a construction will upset the timely framework of IBC. **The litigant has to file its appeal within thirty days, which can be extended up to a period of fifteen days, and no more, upon showing sufficient cause. A sleight of interpretation of procedural rules cannot be used to defeat the substantive objective of a legislation that has an impact on the economic health of a nation.***

34. *On the second question, Rule 22(2) of the NCLAT Rules mandates the certified copy being annexed to an appeal, which continues to bind litigants under IBC. While it is true that the tribunals, and even this Court, may choose to exempt parties from compliance with this procedural requirement in the interest of substantial justice, as reiterated in Rule 14 of the NCLAT Rules, the **discretionary waiver does not act as an automatic exception where litigants make no efforts to pursue a timely resolution of their grievance. The appellant having failed to apply for a certified copy, rendered the appeal filed before NCLAT as clearly barred by limitation.***

10.3.1. This Court in Sanjay Pandurang Kalate v. Vistra ITCL India Ltd. & Others, has pointed out that the date on which the limitation begins to run is intrinsically linked to the date of pronouncement. After referring to this decision, this Court in A. Rajendra v. Gonugunta Madhusudhan Rao & Others, has clearly stated that where the judgment was pronounced in open Court, the period of limitation starts running from that very day. The following paragraphs are relevant in this regard:

“23. *In Sanjay Pandurang Kalate v. Vistra ITCL India Pvt. Ltd. & Others, this Court had an occasion to deal with the case where an application was heard by NCLT on 17.05.2023 but no order was pronounced. The Order came to be uploaded by the Registry on 30th April 2023 directly carrying the date of the Order as 17.05.2023. The appellant applied for the certified copy on 30th May 2023 which was received on 01.06.2023 and the appeal was filed in NCLAT on 10.07.2023 along with the application for condonation of delay. The issue which was dealt by this Court in this case was as to which date triggers limitation to commence when the matter is conclusively heard on one day and the Order is directly uploaded on the website on another. It was held that the period to compute limitation to file an appeal under Section 61 IBC from the Order of NCLT commences from the date of uploading of the Order by the Registry as the commencement of the period of Limitation is intrinsically linked to the date of pronouncement.*

24. *Therefore, the incident which triggers limitation to commence is the date of pronouncement of the Order and in case of non-pronouncement of the Order when the hearing concludes, the date on which the Order is pronounced or uploaded on the website.*

25. *However, where the judgment was pronounced in open Court, the period of limitation starts running from that very day. The appellant is however entitled to seek relief under Section 12(2) of the Limitation Act for excluding the period during which the certified copy was under preparation on an application preferred by that party.”*

20. In the above case, also the Respondent No. 1, Rajkumar Banerjee who had filed appeal was not party before the NCLT. Hon’ble Supreme Court in the said case held that appeal was filed beyond 45 days prescribed under Section 61(2) of the IBC. Answering Issue No. 1, following was held in paragraph 10.4:

“10.4. In the present case, Respondent No. 1 was neither a party to the proceedings before the NCLT nor privy to the CoC deliberations, and became aware of the order only upon its subsequent disclosure. However, it is evident that the Company Secretary of the Corporate Debtor duly informed the listing departments of both NSE and BSE about the NCLT order dated 07.04.2022 within 30 minutes

of its pronouncement. Hence, the limitation period for filing the appeal commenced on 07.04.2022 and expired on 07.05.2022. Notably, 07.05.2022 fell on the first Saturday of the month, which is a working day for the Registry of the NCLAT. Even otherwise, the benefit of section 4 of the Limitation Act, 1963 cannot be granted, as Respondent No. 1 filed the appeal beyond not only the prescribed period of 30 days but also the condonable period of 15 days, i.e., on 24.05.2022. In view of the same reason, Rule 3 of the NCLAT Rules, 2016 has also no application to the facts of the present case. Thus, applying the principles laid down in the decisions referred to above, we arrive at the irresistible conclusion that Respondent No. 1 filed the appeal beyond the statutory maximum period of 45 days prescribed under section 61(2) IBC. Accordingly, the first issue is answered by us.”

21. Answering Issue No. 2, Hon’ble Supreme Court held that NCLT has no jurisdiction to condone the delay beyond 15 days after expiry of the limitation.

In paragraphs 11 to 13, following was held:

“11. As indicated above, the IBC prescribes strict timelines for filing appeals and taking legal action so as to ensure that insolvency proceedings are not misused to recover time-barred debts. The proviso to Section 61(2) clearly limits the NCLAT’s jurisdiction to condone delay only up to 15 days beyond the initial 30-day period. Where a statute expressly limits the period within which delay may be condoned, an Appellate Tribunal cannot exceed that limit. In other words, the NCLAT being a creature of statute, operates strictly within the powers conferred upon it. Unlike a civil suit, it lacks inherent jurisdiction to extend time on equitable grounds.

11.1. Once the prescribed and condonable periods (i.e., 30 + 15 days) expire, the NCLAT has no jurisdiction to entertain appeals, regardless of the reason for the delay. In *Mobilox Innovations Private Limited v. Kirusa Software Private Limited*, while interpreting Section 9 IBC, this Court underscores the IBC’s strict procedural discipline i.e., only applications strictly conforming to statutory requirements can be entertained. This principle is also applicable to limitation issues under section 61(2), as it supports the idea that tribunals must operate within the bounds of the Code, without adding equitable or discretionary powers not conferred by statute. This Court in *Kalpraj Dharamshi v. Kotak Investment Advisors Limited & Another* has categorically held that the NCLAT cannot condone any delay beyond 15 days even on equitable grounds; and that the appellate mechanism

under IBC is strictly time-bound by design to preserve the speed and certainty of the insolvency resolution process.

11.2. Thus, the NCLAT has no power to condone delay beyond the period stipulated under the statute. Accordingly, the second issue is answered by us.

12. In view of the foregoing, the order passed by the NCLAT condoning the delay in filing the appeal, is ultra vires and liable to be set aside.

13. Before parting, we may observe that time is of the essence in statutory appeals, and the prescribed limitation period must be strictly adhered to. Even a delay of a single day is fatal if the statute does not provide for its condonation. As held by us, the NCLAT has no power to condone delay beyond the period stipulated under the statute. Allowing condonation in such cases would defeat the legislative intent and open the floodgates to belated and potentially frivolous petitions, thereby undermining the efficacy and finality of the appellate mechanism.”

22. Hon’ble Supreme Court allowed the appeal and set aside the order of this Tribunal issuing notice. Above judgement of the Hon’ble Supreme Court fully supports the submissions advanced by the respondent. With respect to period of limitation, no distinction has been noticed by the Hon’ble Supreme Court in a case where appellant who is filing appeal under Section 61 was party to the proceeding before the NCLT or not. It was further held that the limitation for filing the appeal commences from the date of pronouncement of the judgement.

23. In view of the forgoing discussions, we answer Question No. I, holding that the limitation for filing the appeal under Section 61(2) commences from the date of pronouncement of the judgement and is not dependent on the knowledge of the order to the appellant/applicant.

Question No. II

24. We have noted above that order impugned was passed on 07.01.2025 and 30 days period came to an end on 06.02.2025 and further 15 days condonable period also came to an end on 21.02.2025. Present appeal was filed on 09.04.2025 i.e., much beyond the condonable period. Appeal having been filed beyond condonable period, this Tribunal has no jurisdiction to condone the delay as has been laid down by the judgement of the Hon'ble Supreme Court in '**Tata Steel**' (*Supra*).

We answer Question No. II accordingly.

25. We are unable to condone the delay in filing the present appeal. In result, the delay condonation application I.A. 2327/2025, is dismissed and memo of appeal is rejected.

**[Justice Ashok Bhushan]
Chairperson**

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

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

NEW DELHI

08th July, 2025

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