

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) (Insolvency) No. 250 of 2025

&
I.A. No. 959 of 2025

(Arising out of Order dated 02.08.2024 passed by the Adjudicating Authority (National Company Law Tribunal), New Delhi, Court-V (Division Bench) in I.A. No.3698 of 2024 in IB-16/PB/2017)

IN THE MATTER OF:

Unified Titanium Common Association
Through Authorized Representative

... Appellant

Versus

Earth Iconic Infrastructures Pvt. Ltd.
Through Liquidator

... Respondent

Present:

For Appellant : Mr. Neeraj Gupta, Ms. Shubhangini Yadav, Mr. Shashank Raghav and Mr. Ankur Saraswat, Advocates

For Respondent : Ms. Honey Satpal and Mr. Kanishk Kullar, Advocates.

J U D G M E N T

ASHOK BHUSHAN, J.

IA No.959 of 2025

This IA has been filed by the Appellant praying for condonation of 117 days in filing of the Appeal.

2. This Appeal has been filed by the Appellant challenging order dated 02.08.2024 passed by National Company Law Tribunal ("**NCLT**"), New Delhi, Court-V passed in IA No.3698 of 2024 filed by the Appellant - Unified Titanium

Common Association (“**UTCA**”). The Appellant aggrieved by the order dated 02.08.2024 has filed the present Appeal on 27.12.2024 with the delay of 117 days. Notices were issued on delay condonation application – IA No.959 of 2025, by order dated 06.03.2025. Reply has been filed on the delay condonation application by Respondent, to which, rejoinder affidavit has also been filed.

3. Brief facts of the case necessary to be noticed for deciding the application are:

- (i) Corporate Insolvency Resolution Process (“**CIRP**”) commenced against the Corporate Debtor (“**CD**”) on an application filed under Section 7 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “**IBC**”). Liquidation proceedings commenced against the CD on 10.01.2020 and one Mr. Harish Chander Manchanda was appointed as Liquidator.
- (ii) The Appellant filed IA No.3698 of 2024, praying for following reliefs:
 - “(i) Set Aside decision of rejection dated 29.11.2023 taken by Liquidator in 10th SCC Meeting and decision of rejection dated 10.06.2024 taken by Liquidator in 15th SCC Meeting for Scheme of Compromise submitted by Applicant jointly with members of Stakeholders Consultation Committee.
 - (ii) Direct the Liquidator not to proceed with the E-Auction of Corporate Debtor, withdraw the E-Auction notices and put the Scheme of Compromise dated 02.07.2024 for e-

voting of members of Stakeholders Consultation Committee through secret ballot.

- (iii) Pass any further order as this Hon'ble Tribunal may deem fit and proper in the interest of justice.”
- (iii) The application came for consideration on 29.07.2024 before the Adjudicating Authority, who passed an order directing the listing of IA on 30.07.2024. Again on 30.07.2024, the matter could not be taken up due to paucity of time and the matter was adjourned to 02.08.2024.
- (iv) The Appellant filed Company Appeal (AT) (Ins.) No.1877 of 2024 before this Tribunal challenging order dated 29.07.2024 and 30.07.2024. The Appeal was e-filed on 02.08.2024 and defects were scrutinized and raised on 07.08.2024. The Appeal was returned to the Appellant on 23.09.2024. When the Appeal was refiled, the Appellant removed order dated 29.07.2024 and 30.07.2024, which were challenged, instead new order dated 02.08.2024 was sought to be challenged.
- (v) When the Company Appeal (AT) (Ins.) No.1877 of 2024 came for hearing, this Tribunal noticed the above discrepancy and by order dated 26.11.2024 dismissed the Company Appeal (AT) (Ins.) No.1877 of 2024. This Tribunal, however, while dismissing the Appeal, gave the opportunity to the Appellant to challenge the

order dated 02.08.2024 in accordance with law because it was a separate cause of action.

(vi) After dismissal of the Company Appeal (AT) (Ins.) No.1877 of 2024, the present Appeal has been filed by the Appellant challenging the order dated 02.08.2024 on 27.12.2024. There being delay of 117 days, application for condonation of delay was filed. It is useful to notice entire application, which contain six paragraphs, which are as follows:

- “1. That the Appellant Unified Titanium Common Association (UTCA) is an Association of Buyers/Financial Creditors in a class of M/s Earth Iconic Infrastructures Pvt Ltd which are the allottees of Earth Titanium Project being developed by Corporate Debtor, registered under Section-8 of Companies Act 2013. The appellant (UTCA) is fully authorised by its Memorandum to represent the allottees of the project on all platforms as well as to work for welfare of allottees of the project. The appeal is filed against the impugned order dated 02/08/2024 passed by Hon’ble Adjudicating Authority in CP(IB)-16 of 2017.
1. The Appellants seek the liberty to refer and rely upon the averments, submissions, contentions, etc., made in the accompanying appeal as a part and parcel of the present Application and the same are not being repeated for the sake of brevity.
2. The Appellants are filing the present application seeking condonation of delay of 117 days in filing of appeal against the impugned order dated 02/08/2024.
3. That appellant has previously filed a Company Appeal (AT) (Ins) 1877 of 2024 which was dismissed due to reasons as mentioned in the dismissal order dated 26/11/2024 (Annexure 1)
4. In the same order, Hon’ble Appellate authority has allowed the appellants to challenge the order dated 02/08/2024.
5. Grave prejudice would be caused to the Appellants, if the present application is not allowed in the terms of relief

prayed hereinafter. No prejudice of any nature whatsoever would be caused to the Respondents if the present application is allowed in terms of reliefs prayed herein.

6. The application is moved bonafide and in interest of justice.

PRAYER

In the view of the above facts, the Appellants humbly prays that this Hon'ble Court may be pleased to –

- a. Allow the present application and condone the delay of 117 days in filing of appeal on the basis of above facts and circumstances
- b. Pass any such further order as this Hon'ble Court may deem fit and proper in the interest of justice.”

4. Learned Counsel for the Appellant in support of the delay condonation application submits that the Appellant was pursuing the earlier Appeal before this Tribunal, where the order dated 02.08.2024 sought to be challenged, which Appeal was dismissed on 26.11.2024, with liberty to file the present Appeal. The Appellant is entitled for exclusion of period from 02.08.2024 till 26.11.2024 and in event the said period is excluded, the Appeal filed on 27.12.2024 is within the condonable period. It is submitted that the Appellant is entitled for the benefit of Section 14 of the Limitation Act, 1963, since the earlier Appeal, which was being pursued by the Appellant from 02.08.2024 to 26.11.2024 was due to misjoinder of cause of action, hence, the benefit of Section 14 be extended.

5. Learned Counsel appearing for the Respondent refuting the submissions of the Appellant submits that the Appellant is not entitled for benefit of Section 14 of the Limitation Act. The Appellant has not been bonafide pursuing the earlier Appeal, which Appeal was filed challenging the orders dated 29.07.2024 and 30.07.2024. The defects were pointed out by the Registry on 07-08-2024 and thereafter the Appellant unethically and illegally refiled the Appeal by annexing order dated 02.08.2024 as an impugned order, which was clear manipulation and unauthorized act on the part of the Appellant. The said refiling was done on 23.09.2024 by the Appellant. The Appeal against order dated 02.08.2024, was already barred by time on 23.09.2024, since period of 45 days had elapsed. Hence, the present is not a case of extending the benefit of Section 14 of the Limitation Act. Order dated 02.08.2024 was never challenged in Company Appeal (AT) (Ins.) No.1877 of 2024 and for the first time on 23.09.2024, at the time of refiling, this order was inserted in the Appeal. The Appellant has not been bonafide pursuing the proceedings. Hence, no benefit under Section 14 of the Limitation Act, can be extended to the Appellant.

6. We have considered the submissions of learned Counsel for the parties and have perused the record.

7. The earlier Appeal, which was filed by the Appellant being Company Appeal (AT) (Ins.) No.1877 of 2024 was filed against two orders, i.e. dated 29.07.2024 and 30.07.2024. Both the orders, which were challenged in

Company Appeal (AT) (Ins.) No.1877 of 2024 have been noticed in paragraphs 1 and 2 of the order dated 26.11.2024, which are as follows:

“26.11.2024: This appeal is filed under Section 61 of the IBC, 2016 to challenge two orders i.e. the order dated 29.07.2024 passed in I.A. No. 3698 of 2024 in CP (IB) No. 16/PB/2017 passed by the National Company Law Tribunal, New Delhi, Court No. V. The said order dated 29.07.2024 read as under:-

“PRESENT:

For the Applicant : Mr. P Nagesh, Sr. Adv., with Mr. Shashank Raghav, Ms. Shubhangini Yadav, Mr. Ankur Saraswat, IA/3698/2024

For the Respondent :

ORDER

New IA/3698/2024:-

Ld. Sr. Counsel on behalf of the Applicant is present. Ld. Counsel on behalf of the Respondent Liquidator is also present. It was informed that the main matter is listed tomorrow. Therefore, this application may also be listed tomorrow i.e. **30.07.2024.**

2. The second order dated 30.07.2024 also read as under:-

“Due to paucity of time, the matter is listed on 02.08.2024.”

8. Company Appeal (AT) (Ins.) No.1877 of 2024 was e-filed on 02.08.2024, on which defects were raised. This Tribunal in its judgment dated 26.11.2024 has noticed that when the Appeal was returned to the Counsel for the Appellant online, it was refiled by the Appellant through Counsel, but at the time of refiling, the Appellant through its Counsel removed the orders dated 29.07.2024 and 30.07.2024, which were challenged and inserted a new order dated 02.08.2024. The said fact has been noticed by this Tribunal in paragraph 7, which is as follows:

“7. After the appeal was returned to Counsel for the Appellant online, it was refiled by the Appellant through counsel Shashank Raghav on 23.09.2024 online, but at the time of refiling, the Appellant through his counsel removed the orders dated 29.07.2024 and 30.07.2024 which were challenged in this appeal and inserted a new order dated 02.08.2024 which read as under:-

“PRESENT:

For the Applicant : Ms. Pooja Mehra Saigal, Mr. Abhishek Anand, Mr. Rajat Joneja, Ms. Sakshi Kapoor, Mr. Anmol Kumar, Advs. for (Ansal IT City and Parks Ltd.) Ms. Shubhangini Yadav, Mr. Ankur Saraswat, Mr. Shashank Raghav, Advs. IA/3698/2024, IA/5020/2023 & IA/270/2024

For the Respondent : Mr. Sethu Mahendran, Mr. Anshul Rawat, Mr. Saurabh George, Advs. in IA/2372/2022 for R 2 (NOIDA Special Economic Zone)

For the Liquidator : Mr. Sunil Fernandez, Sr. Adv., Ms. Honey Satpal, Ms. Nandini Chaudha, Mr. Yash Dhyani, Advs.

For the GNIDA : Mr. U.N. Singh, Ms. Sandhya Chaturvedi in IA/2372/2022

ORDER

IA/3698/2024:- This is an application filed under Section 60(5) of the IBC, 2016 read with Rule 11 of the NCLT Rules, 2016, in which one of the prayers is seeking direction to the Liquidator not to proceed with the E-Auction of the Corporate Debtor and withdraw the E-Auction notice. We have heard the submissions made by the Ld. Counsels on behalf of the Applicants and Ld. Senior Counsel on behalf of the Liquidator. Ld. Counsel on behalf of the Greater NOIDA Authority also appears and has submitted various objections on the process of the E-Auction of the Corporate Debtor. It is the contention of the Ld. Counsel on behalf of the Greater NOIDA Authority that the Liquidator has not admitted the claim of the Greater NOIDA Authority in terms of the judgment of the Hon'ble Supreme Court in Prabhjit Singh Soni case and without admitting their claim and making them as a party of the Stakeholders Consultation Committee, the Liquidator has taken further steps.

The Liquidator is directed to examine the claim of the Greater NOIDA Authority in terms of the judgment of the Hon'ble Supreme Court in Prabhjit Singh Soni case and take all appropriate actions including making the Greater NOIDA

Authority as a member of the Stakeholder Committee if they are entitled to do so as per law. We direct that till this issue is decided, further proceeding in respect of E-Auction shall not take place.

List this application on 27.08.2024 at 11:30 am. List all other applications on 27.08.2024 at 11:30 am.””

9. This Tribunal heard the Appellant and discrepancy was pointed out to the Appellant. This Tribunal after hearing the parties expressed its anguish and disappointment on the practice being followed. In paragraphs 11, 12 and 13 of the judgment, following was observed:

“11. We have asked the Counsel for the Appellant as to why he has removed the orders dated 29.07.2024 and 30.07.2024 from the record of the Court and refiled the appeal challenging a new order dated 02.08.2024. He has submitted that it is his solitary filing of the appeal before this Tribunal and he is comparatively a young lawyer having been registered in the year 2019 with the Bar Council. He has tendered an unconditional apology for the mistake he has committed and has assured that he shall not repeat it in future.

12. We are not inclined to punish him for this mistake but we are also not happy with the kind of attitude as to “who bothers”. We may emphatically observe that once a case is filed online or by way of hard copy, it becomes record of the court and if the said record is given back to the parties concerned for removing the defects and for refiling, no change, at any cost can be brought about, without taking an order from the court, in case there happens to be a mistake on account of an error of omission or commission. In case such type of practice is allowed to be continued in this court then there shall be no end to making interpolations and changes in the pleadings or various applications filed because entire working of the court is based upon mutual trust. We have also witnessed that in many other cases the counsel for the parties raise objection about new documents being filed during the proceedings without taking permission of the Court though it is incumbent upon the parties concerned to file a proper application, after following due procedure, as the entire edifice of the judicial system is based upon the pleadings and nothing is considered or denied orally.

13. Having expressed our anguish and disappointment on the practice being followed, changing the record of the Court at the time of refiling, we have no other alternative but to dismiss this appeal which was initially filed against the order dated 29.07.2024 and 30.07.2024 as the said cause of action is no more available to the appellant because

he has replaced the order dated 02.08.2024 at the time of refiling against which the Appellant is now being aggrieved.”

10. This Tribunal while dismissing the Appeal, gave liberty to the Appellant to challenge the order in accordance with law, which is contained in paragraph 14 of the Appeal, which is as follows:

“**14.** However, while dismissing the present appeal, we still give an opportunity to the Appellant to challenge the order dated 02.08.2024 in accordance with law because it is a separate cause of action, other than the one against which the appeal was initially filed to challenge the order dated 29.07.2024 and 30.07.2024. While concluding, we can only hope that this kind of situation will not arise in future and the Counsel for the parties may not invite an embarrassing order because of their own fault and force this Court to take strict action against them.”

11. The Appeal was dismissed by imposing cost.

12. The Appellant’s submission is that on account of liberty granted by this Tribunal vide order dated 26.11.2024, while deciding the earlier Appeal, the present Appeal has been filed on 27.12.2024, hence, the Appeal be entertained. When we look into the observation made in paragraph 14, this Tribunal observed that “*However, while dismissing the present appeal, we still give an opportunity to the Appellant to challenge the order dated 02.08.2024 in accordance with law...*”. Thus, liberty granted by this Tribunal to file an Appeal in accordance with law. In event the Appeal is barred by time, the Appellant has to make grounds for condonation of delay.

13. It is well settled law that limitation for filing Appeal commences from the date when order is pronounced. The order dated 02.08.2024 was delivered on 02.08.2024, which is mentioned in the impugned order itself. The limitation

for filing the Appeal commenced on 02.08.2024 and the limitation of 30 days shall come to an end on 01.09.2024 and 15 days' period shall also come to an end on 16.09.2024. As per the observation and finding of this Tribunal in order dated 26.11.2024, for the first time, the Appellant while refiling the earlier Company Appeal (AT) (Ins.) No.1877 of 2024, inserted the order dated 02.08.2024. On the date when the Appellant sought to challenge the order dated 02.08.2024 in Company Appeal (AT) (Ins.) No.1877 of 2024, period of limitation of 30 days and also the extendable period of 15 days, has already come to an end.

14. Learned Counsel for the Appellant has placed much reliance on Section 14 of the Limitation Act and submits that entire period from 02.08.2024 till 26.11.2024 be excluded, giving benefit of Section 14. The above submission advanced by the learned Counsel for the Appellant, cannot be accepted for two reasons. Firstly, it was for the first time on 23.09.2024, the Appellant sought to challenge the order dated 02.08.2024 in earlier Appeal. The plea of misjoinder of cause of action, cannot come to an aid of the Appellant, since on 23.09.2024, the limitation to challenge the order dated 02.08.2024 has already come to an end. Secondly, the law is well settled that for extending the benefit of Section 14 of the Limitation Act, the conditions stipulated in Section 14 need to be fulfilled and one of the conditions is that the Plaintiff has been prosecuting the earlier proceedings with due diligence and good faith.

15. Learned Counsel for the Respondent has placed reliance on judgment of the Hon'ble Supreme Court in **(2008) 7 SCC 169 – Consolidated Engineering Enterprises vs. Principal Secretary Irrigation Department and Ors.**, where in paragraph 21, the Hon'ble Supreme Court laid down following:

“21. Section 14 of the Limitation Act deals with exclusion of time of proceeding bona fide in a court without jurisdiction. On analysis of the said section, it becomes evident that the following conditions must be satisfied before Section 14 can be pressed into service:

- (1) Both the prior and subsequent proceedings are civil proceedings prosecuted by the same party;
- (2) The prior proceeding had been prosecuted with due diligence and in good faith;
- (3) The failure of the prior proceeding was due to defect of jurisdiction or other cause of like nature;
- (4) The earlier proceeding and the latter proceeding must relate to the same matter in issue and;
- (5) Both the proceedings are in a court.”

16. The Limitation Act, Section 2(h) defines ‘good faith’ in following words:

“2(h) “good faith”—nothing shall be deemed to be done in good faith which is not done with due care and attention;”

17. Order dated 02.08.2024 was never challenged in Company Appeal (AT) (Ins.) No.1877 of 2024 and it was sought to be inserted at the time of refiling of the Appeal. The act of the Appellant was clearly reckless and had been adversely commented by this Tribunal on 26.11.2024 as noticed above. Neither there was any bonafide, nor it can be said that Appellant acted diligently. According to the prayers made in the application itself, the delay is

said to be of 117 days and present is a case where the Appellant is clearly not entitled for the benefit of Section 14 of the Limitation Act. The Hon'ble Supreme Court in **Tata Steel Ltd. Vs. Raj Kumar Banerjee & Ors. – Civil Appeal No.408 of 2023** decided on 7th May, 2025 has held that the NCLAT has no jurisdiction to condone the delay beyond 15 days. In **Tata Steel**, the Hon'ble Supreme Court after noticing earlier judgment of the Supreme Court in **V. Nagarajan v. SKS Ispat Powers Ltd. & Ors.**, laid down following in paragraph 10.3 and 10.3.1:

"10.3. In *V. Nagarajan v. SKS Ispat & Power Ltd.*, 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.”*

18. The Hon'ble Supreme Court has further held that the NCLAT has no jurisdiction to condone the delay beyond 15 days, which has been held in paragraph 11, 11.1, 11.2, 12 and 13, which are as follows:

“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.”

19. In view of the law laid down by the Hon’ble Supreme Court in **Tata Steel**, we have no jurisdiction to condone the delay beyond 15 days.

20. In view of foregoing discussions, delay condonation application – IA No.959 of 2025 is dismissed. In result, the Appeal is also dismissed. There shall be no order as to costs.

**[Justice Ashok Bhushan]
Chairperson**

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

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

NEW DELHI

8th July, 2025

Ashwani