

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

Company Appeal (AT) (CH) (Ins) No.151/2025
(IA Nos.1276 & 1277/2025)

In the matter of:

State of Tamil Nadu,
Commercial Taxes and Registration Dept.,
Rep. by Jurisdictional Assistant Commissioner (ST)(FAC),
Ms. M. Chitradevi,
Aruppukottai Assessment Circle,
187 C, Madurai Road, Aruppukottai,
Virudhunagar District – 626 101. ... Appellant

V

Mr. S. Muthuraju,
Liquidator of M/s. Sri NagaNanthana Mills Ltd.,
No.3, Sundaram Brothers Layout,
Opp to All India Radio, Trichy Road,
Ramanathapuram, Coimbatore – 641 045. ...Respondent

Present :

For Appellant : Mr. P. Sathish, Advocate

JUDGMENT
(Hybrid Mode)

[Per : Justice Sharad Kumar Sharma, Member (Judicial)]

The controversy, which falls for consideration at the behest of the Appellant, pertains to the tax liabilities that were arrived at on the basis of various assessment orders rendered in respect of the assessment years from 2003–2004 onwards till 2016–2017. However, at this stage, we are not required to undertake a detailed analysis of the implications of the CST assessment orders, the interest payable

thereon, or the quantum of amount that would fall due to be paid by the Corporate Debtor, namely M/s. Sri Nagananthana Mills Limited.

2. The facts that can be derived from the records are that the Learned NCLT, Chennai, in proceedings conducted in CP/611/IB/2017, placed the Corporate Debtor into liquidation by an order dated 21.06.2018. Pursuant to the commencement of the liquidation process, which commenced on 21.06.2018, the Applicant admittedly filed a claim vide Letter No. A3/169/16 only on 12.02.2020. The said claim was admittedly rejected by the liquidator on 17.02.2020.

3. The communication regarding rejection of the claim was sent by the liquidator, wherein it was observed that, after taking into consideration all aspects of the claim raised by the Appellant, the liquidator rejected the same on the grounds that (i) the claim submitted vide letter dated 12.02.2020 for an amount of Rs. 1,70,15,094/- was not filed in the prescribed form as mandated under the I&B Code, (ii) the claim raised by the Appellant was not in accordance with the Rules and Regulations of the I & B Code and (iii) it was also barred by limitation as prescribed under Regulation 16(1) of the IBBI (Liquidation Process) Regulations, 2016. Accordingly, the claim was rejected by the liquidator and the same was communicated vide letter dated 17.02.2020. After such communication, the Appellant did not take any steps to agitate his cause before the competent appellate forum regarding the rejection of the claim by the liquidator.

4. The statute provides that against an order of rejection of a claim by the liquidator, the remedy available to the claimant is to prefer an appeal before the Learned Adjudicating Authority. However, the limitation prescribed for filing such an appeal is 14 days from the date of receipt of the decision, as contemplated under Section 42 of the I & B Code, 2016. Admittedly, no appeal was preferred by the Appellant within the prescribed time. Instead, at a belated stage, the Appellant chose to file an application seeking to set aside the order dated 17.02.2020 on the grounds mentioned therein.

5. The application so preferred was an Interlocutory Application under Section 42 of the I & B Code, 2016, filed on 19.07.2023, wherein the Appellant sought the following reliefs:

“In these circumstances, it is therefore prayed that this Hon’ble Tribunal may be pleased to set aside the Order dated 17/02/2020 passed by the 1st Respondent rejecting the claim of the applicant to the tune of Rs.1,70,15,094/- and direct the 1st Respondent to receive all the documents relating to the claim filed by the Applicant ad thus render justice”.

6. This application was numbered as IA(IBC)/1462(CHE)/2023 and was accompanied by another application, namely IA(IBC)/1463(CHE)/2023, purportedly filed under Rule 11 of the NCLT Rules seeking condonation of delay in preferring an appeal under Section 42 against the rejection of the claim dated

17.02.2020. Admittedly, since both applications were filed on 19.07.2023, they were far beyond the prescribed period of limitation.

7. Both Interlocutory Applications were considered by the Learned Adjudicating Authority and were rejected by the impugned order dated 20.03.2024, which is now under challenge in the present Company Appeal. The Company Appeal is accompanied by an application seeking condonation of delay in re-filing. Although the Appellant has sought condonation of 328 days of delay in re-filing, the Registry has reported the delay to be only 30 days. Accordingly, the delay of 30 days in re-filing the appeal stands condoned, and IA No. 1276/2025 is allowed.

8. On merits, the Company Appeal is required to be decided independently. When the aforesaid two applications filed by the Appellant under Section 42 of the I & B Code against the rejection order dated 17.02.2020 came up for consideration, the Learned NCLT rejected them by order dated 20.03.2024. The Learned Tribunal observed that the liquidation order was passed on 21.06.2018 and that Respondent No. 1, upon being appointed as liquidator, issued a public notice on 27.06.2018 inviting claims, with the last date fixed as 26.07.2018. At that stage itself, the Appellant ought to have approached the liquidator by submitting the claim in compliance with the public notice. However, the claim was submitted with a delay of 351 days and was therefore rejected. Even earlier also, when the Appellant filed MA No. 801/2019 in CP/611/2017 seeking condonation of delay in submission of

the claim, the claim was found to be beyond the prescribed period. Form C was ultimately submitted only on 12.02.2020, and the claim was rejected on 17.02.2020 on the ground that it was not in the prescribed format and was barred by limitation under Regulation 16(1) of the Liquidation Process Regulations, 2016.

9. Aggrieved by this rejection, the Appellant filed IA(IBC)/1463/2023 and IA(IBC)/1462(CHE)/2023 on 19.07.2023, seeking condonation of delay and grant of relief under Section 42 of the I & B Code. The application seeking condonation of delay for invoking Section 42 was contested. The Learned Tribunal, after considering Section 42 of the I & B Code, 2016, the prescribed limitation period, and the exclusions granted during the Covid-19 pandemic pursuant to the suo-motu writ petition (from 15.03.2020 to 28.02.2022), held that even with such exclusions, the application filed in 2023 remained barred by limitation.

10. The Learned Tribunal recorded that the liquidator, while rejecting the claim on 17.02.2020, had assigned specific reasons, namely that the claim was delayed by 351 days and that no satisfactory explanation for such delay was provided. Even thereafter, the Appellant failed to invoke appellate jurisdiction under Section 42 within the statutory period and slept over his rights.

11. While rejecting the applications and declining to entertain the appeal under Section 42 of the I & B Code, 2016, the Learned Tribunal observed that the

Appellant had filed its application before the relevant authorities at a highly belated stage in both occasions before the liquidator after 351 days and before the Tribunal after a lapse of 1243 days. By that time, the liquidation process had substantially progressed, and the assets had already been distributed in accordance with the waterfall mechanism under Section 53 of the I & B Code.

12. The Respondent produced documents to establish that the stage under Section 53 had already been crossed, rendering any interference impermissible. The Learned Tribunal further relied upon the judgment in *Deputy Commissioner Commercial Taxes (Audit), Raichur v. Surana Industries Ltd. (In Liquidation) & Anr.*, Company Appeal (AT) (Insolvency) No. 1525 of 2019 dated 07.02.2020, to reiterate that limitation is pivotal in liquidation proceedings and that, time is the essence of the I & B Code and since Regulation 44(1) mandates completion of liquidation within one year, once finality is attained, the process cannot be reopened even on equitable considerations.

13. Thus, on account of the very manner and diligence with which the Appellant has taken up the proceedings of raising of a claim after the Corporate Debtor was put to liquidation, which is that the claim itself was filed 351 days after the expiry of the period prescribed by way of publication for invitation of claim and that, after the rejection of the claim on 17.02.2020, the appeal was filed with a delay of 1243 days, the rejection of the Appeal before Ld. NCLT by the impugned order

dated 20.03.2025 does not suffer from any apparent error which could call for any interference more particularly when in the light of the implications of the provisions contained under Regulation 44(1) of IBBI (Liquidation Process), Regulations, 2016, when the liquidation process of the Corporate Debtor has already been laid to rest, the same cannot be permitted to be reopened for the purposes of entertainment of the belated claim of the Appellant by entertaining of the Company Appeal. Hence, the Company Appeal lacks merit and the same is accordingly dismissed. All pending Interlocutory Applications would stand closed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

16/12/2025
VG/MS/RS