



**IN THE NATIONAL COMPANY LAW TRIBUNAL
ALLAHABAD BENCH, PRAYAGRAJ**

**IA No. 229/2022 & IA No.273/2022 IN
CP (IB) No.110/ALD/2017**

(An application filed under Section 5 of the Limitation Act, 1963 read with Rule 11 of NCLT Rules, 2016).

IN THE MATTER OF:

Electric Distribution Division-I

Madhyanchal Vidyut Vitran Nigam Limited
Super Market, Raebareli,
Through Executive Engineer

..... Applicant

Versus

Mrs. Anju Agarwal

Liquidator of Shree Bhawani Paper Mills Limited
IBBI Regn No. – IBBI/IPA-001/IP-P00106/2017-2018/10213
Address: 7, National Park, Lajpat Nagar IV, New Delhi-110024,
Email-Id: anju@insolvencyservices.on
Mobile No. - 09810488525

..... Respondent

AND IN THE MATTER OF:

Electric Distribution Division-I

..... Applicant

Versus

Mrs. Anju Agarwal

..... Respondent

AND IN THE MATTER OF:

M/s Shree Bhawani Paper Mills Limited,

CIN: L21015UP1979PLCOO4783

A company registered under the provisions
of Companies Act, 2013

Its registered office at:

33, Dayanand Marg, Allahabad UP
(under liquidation)

.....Corporate Debtor

Order pronounced on: 08.09.2025

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CORAM:

Sh. Praveen Gupta : Member (Judicial)
Sh. Ashish Verma : Member (Technical)

Appearances:

Sh. Shivendra Bahadur, CGSC : *For the Applicant*
Sh. Abhishek Anand with : *For Res./Liquidator*
Sh. Krishna Sharma

ORDER

- 1.** The present Application has been filed by Electric Distribution Division-I, Madhyanchal Vidyut Vitran Nigam Limited, Raebareli, through its Executive Engineer ('Applicant'), under Section 5 of the Limitation Act, 1963 read with Rule 11 of NCLT Rules, 2016 on 04.09.2022 seeking condonation of delay of 45 days from 31.05.2022 to 13.07.2022 in filing of the application, i.e. IA No. 229 of 2022 in CP No. 110/ALD/2017.
- 2.** The Applicant submits that IA No. 229/2022 was filed on 13.07.2022 challenging the order dated 21.12.2021 ("Impugned Order"), passed by the Liquidator of M/s Shree Bhawani Paper Mills Limited, whereby the claim of the Applicant was rejected. However, due to inadvertence, an application seeking condonation of delay could not be filed simultaneously.
- 3.** The Applicant states that after the passing of the Impugned Order on 21.12.2021, the Applicant enquired about the same from the counsel

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who had filed the claim before the Liquidator on 04.01.2022, and also requested a copy of the said order.

4. It is submitted that on 07.02.2022, a letter was addressed to the Deputy Law Officer of the Applicant-Corporation seeking guidance on the future course of action for challenging the Impugned Order.
5. In response, vide letter dated 25.02.2022, the Deputy Law Officer advised that the Impugned Order be challenged before the National Company Law Tribunal, Allahabad and accordingly a panel advocate was nominated.
6. Thereafter, on 10.03.2022, the Applicant forwarded the Vakalatnama authorizing the present counsel to file the necessary application before this Tribunal.
7. On 15.03.2022, the entire record along with the signature of the Executive Engineer was sent to the counsel of the Applicant-Corporation.
8. Upon scrutiny of the record, certain additional documents were found necessary. Accordingly, the counsel vide letter dated 22.03.2022 requested the Applicant to provide the same.
9. On 04.04.2022, the remaining records were supplied by the Applicant, pursuant to which the draft application was prepared and forwarded

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to the Applicant-Corporation for approval.

- 10.** On 22.05.2022, the corrected and finalized draft was placed before the Executive Engineer, who, after due perusal, signed it and handed it over to counsel on 30.05.2022 for filing.
- 11.** However, due to inadvertence, certain papers remained unstamped before the Oath Commissioner/Notary, and the file had to be returned to Raebareli. As the courts were then closed for summer vacation in June, the matter was taken up thereafter, and the application was ultimately filed on 13.07.2022.
- 12.** The Applicant submits that the delay occasioned in filing the said application is bona fide, unintentional, and without any mala fides.
- 13.** The Applicant further submits that each step has been explained, demonstrating that every possible effort was made to file the application within limitation. However, circumstances beyond the control of the Applicant resulted in a minor delay, despite best efforts to minimize the same.
- 14.** The Applicant also refers to the unprecedented COVID-19 pandemic, during which a nationwide lockdown was imposed in March 2020, leading to the closure of offices, courts, tribunals, and other institutions.

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- 15.** The Hon'ble Supreme Court taking suo motu cognizance of the difficulties faced by litigants, extended the period of limitation in all proceedings w.e.f. 15.03.2020. The period of extension was continued till 28.02.2022.
- 16.** The Hon'ble Supreme Court further directed that where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, all litigants would be entitled to a limitation period of 90 days from 01.03.2022, irrespective of the actual balance period of limitation. In cases where the balance limitation available from 01.03.2022 exceeded 90 days, such longer period would apply.
- 17.** The Applicant respectfully submits, that it has high regard for the dignity of this Tribunal and has abided by the rules and procedures in the filing of the present case.
- 18.** It is therefore, prayed that the inadvertent delay of 48 days in filing the Application may kindly be condoned.
- 19.** It is further prayed that upon condonation of delay, IA No. 229 of 2022 may be heard and decided on merits.

Reply filed by the Respondent

- 20.** The Respondent filed a detailed reply vide diary no. 2426 dated 26.11.2024 and stated as follows:

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- a. At the outset, the Respondent has denied all averments of the Applicant save and except what is specifically admitted, and submits that the Application is false, baseless and devoid of merit.
- b. The Respondent contends that the order rejecting the Applicant's claim dated 21.12.2021 is deemed to be an order passed under Section 42 of the Insolvency and Bankruptcy Code, 2016, which provides a right of appeal within 14 days of receipt of the Liquidator's decision. Section 42 does not confer any power to condone delay, and hence this Tribunal cannot entertain the present belated appeal.
- c. It is pointed out that the last date for filing claims was 05.08.2021, whereas the Applicant filed its claim only on 17.12.2021, with a delay of 163 days. Further, the appeal under Section 42 has been filed after a delay of 45 days, even beyond the extended limitation period granted by the Hon'ble Supreme Court on account of the COVID-19 pandemic. No cogent or sufficient reasons have been furnished by the Applicant for such delay.
- d. The Respondent relies upon the judgment of the Hon'ble NCLAT in *Regional Provident Fund Commissioner v. Titanium Tantalum Products (CA No. 182 of 2022)* to contend that lackadaisical conduct cannot justify condonation of delay. The principle of strict timelines under the IBC, being sacrosanct, is reiterated in the said decision.
- e. It is further submitted that the Hon'ble Supreme Court in *National Spot Exchange Ltd. v. Anil Kohli, RP for Dunar*

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Foods Ltd. (Civil Appeal No. 6187 of 2019), and the Hon'ble NCLAT in *Cloud 9 Apartments Owners Association v. Mohit Goyal, RP for Aadi Best Consortium Pvt. Ltd. (CA No. 573 of 2023)*, have categorically held that tribunals have no inherent power to condone delays beyond the statutorily prescribed period. The Respondent argues that “speed is the essence” of the Insolvency and Bankruptcy Code, 2016 and liquidation proceedings must conclude within the strict time frame of one year.

- f. The Respondent relies upon the judgments in *Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd. [(2018) 1 SCC 353]*, *Ramlal v. Rewa Coalfields Ltd. [AIR 1962 SC 361]*, and *State of West Bengal v. Howrah Municipality [AIR 1972 SC 749]* to submit that “sufficient cause” must be established for condonation of delay, and that sufficient cause cannot be construed too liberally merely because the party in default is the government.
- g. The Respondent also relies on the doctrine of laches, as reiterated in *M/s Shaan Realtors Pvt. Ltd. v. Anshul Gupta [CP (IB) No. 4359 of 2019]*, to contend that equity aids the vigilant and not those who sleep over their rights. The Applicant has deliberately ignored the public announcement dated 10.07.2021 and has failed to approach the Tribunal with clean hands.
- h. The Respondent further submits that under Section 38(1) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 12(2) of the IBBI (Liquidation Process) Regulations, 2016, the Liquidator has no power to accept claims filed beyond 30 days

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from the liquidation commencement date. Reliance is placed on the NCLT, Kolkata Bench judgment in *UCO Bank v. Nicco Corporation Ltd. (In Liquidation)* [CA 31/KB/2018], where it was held that unlike the CIRP stage, there is no provision enabling a liquidator to accept belated claims during liquidation.

- i. On a para-wise basis, the Respondent has denied the grounds taken by the Applicant, including administrative delays and COVID-related restrictions, as being vague and unsupported by any documentary proof. It is submitted that condoning such extraordinary delay would prejudice not only the liquidation process but also the rights of all other stakeholders.
- j. In view of the above, the Respondent prays that the Application seeking condonation of delay be dismissed as being contrary to the mandate of the Insolvency and Bankruptcy Code, 2016, devoid of merits, and prejudicial to the timely completion of the liquidation process.

21. We have heard the learned counsel for the Applicant and the Respondent and carefully perused the pleadings, documents, and case law relied upon by both sides.

22. The issue that falls for determination is whether this Tribunal has the jurisdiction to condone the delay of 45 days occasioned in filing IA No. 229 of 2022 challenging the rejection of the Applicant's claim by the Liquidator vide order dated 21.12.2021.

23. For a clearer appreciation of the issue of limitation, the sequence of

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dates and events as borne out from the record are tabulated herein below to demonstrate the relevant timelines for filing of the claim and the appeal under Section 42 of the Code:

<u>S. No.</u>	<u>Date</u>	<u>Event</u>	<u>Delay/Limitation Status</u>
1.	07.07.2021	Liquidation Commencement Date	-
2.	10.07.2021	Public announcement inviting claims	-
3.	05.08.2021	Last date for filing claims	-
4.	17.12.2021	Claim filed by Applicant	Delay of 134 days beyond last date.
5.	21.12.2021	Liquidator rejected claim	-
6.	14 days thereafter	Limitation under Section 42 to challenge rejection before Adjudicating Authority.	Expired on 04.01.2022
7.	15.03.2020 – 28.02.2022	Supreme Court Suo Motu Extension of Limitation	Applicable
8.	01.03.2022	90 days given by Supreme Court (if limitation expired earlier)	Limitation available till 30.05.2022
9.	13.07.2022	IA No. 229/2022 filed before NCLT	45 days beyond extended limitation.
10.	04.09.2022	IA No. 273/2022 (present application) filed seeking condonation of 45 days delay	53 days after filing IA No. 229/2022

24. It is undisputed fact that the last date for submission of claims in the liquidation proceedings of the Corporate Debtor was 05.08.2021, whereas the Applicant filed its claim only on 17.12.2021, with a delay of 134 days beyond the statutory period under Section 38(1) of the Insolvency and Bankruptcy Code, 2016 read with Regulation 12(2) of

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the IBBI (Liquidation Process) Regulations, 2016. The said belated claim was rejected by the Liquidator on 21.12.2021.

- 25.** Section 42 of the Insolvency and Bankruptcy Code, 2016 provides a right of appeal against the decision of the Liquidator within 14 days of such decision. As per this timeline, the period of limitation expired on 04.01.2022.
- 26.** The Applicant has relied upon the orders of the Hon'ble Supreme Court in *In Re: Cognizance for Extension of Limitation, Suo Motu Writ Petition (Civil) No. 3 of 2020*, whereby the period of limitation was extended from 15.03.2020 till 28.02.2022 and, further, where the limitation had expired during the said period, all litigants were granted a limitation of 90 days from 01.03.2022, i.e., till 30.05.2022 herein.
- 27.** In the present case, therefore, even after applying the benefit of *In Re: Cognizance for Extension of Limitation (supra)* the Applicant had time till 30.05.2022 to file an appeal under Section 42. However, the Application was filed only on 13.07.2022, i.e., after a delay of about 45 days beyond the extended period.
- 28.** In the case of *National Spot Exchange Ltd. v. Anil Kohli, RP for Dunar Foods Ltd. [Civil Appeal No. 6187 of 2019]*, there was a delay of 44 days beyond the statutory period of 45 days in preferring

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the appeal against the order passed by the National Company Law Tribunal which was sought to be condoned, the Hon'ble Supreme Court while considering the issue of limitation under Section 61 of the IBC, 2016 before the NCLAT observed and held as under:

“9. It is true that in a given case there may arise a situation where the applicant/appellant may not be in a position to file the appeal even within a statutory period of limitation prescribed under the Act and even within the extended maximum period of appeal which could be condoned owing to genuineness, viz., illness, accident etc. However, under the statute, the Parliament has not carved out any exception of such a situation. Therefore, in a given case, it may cause hardship, however, unless the Parliament has carved out any exception by a provision of law, the period of limitation has to be given effect to. Such powers are only with the Parliament and the legislature. The courts have no jurisdiction and/or authority to carve out any exception. If the courts carve out an exception, it would amount to legislate which would in turn might be inserting the provision to the statute, which is not permissible.”

- 29.** Further, in ***Cloud 9 Apartments Owners Association v. Mohit Goyal, RP for Aadi Best Consortium Pvt. Ltd. [Comp. App. (AT) (Ins.) No. 573 of 2023]***, the Hon'ble NCLAT, while considering an appeal under Section 61 of the Insolvency and Bankruptcy Code, 2016, placed reliance on the judgment of the Hon'ble Supreme Court in ***National Spot Exchange Ltd. v. Anil Kohli, RP for Dunar Foods Ltd. (supra)***

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and observed as under:

“9. With due respect to the order passed by the Hon’ble High Court of Delhi, it is pertinent to mention that this Tribunal does not have jurisdiction to condone the delay after a period of 45 days in view of the decision rendered by the Hon’ble Supreme Court in National Spot Exchange Limited (supra).”

- 30.** The Hon’ble NCLT, **Kolkata Bench in UCO Bank v. Nicco Corporation Ltd. (In Liquidation)** [CA 31/KB/2018], has also held that unlike CIRP proceedings, there is no enabling provision under the Liquidation Process Regulations permitting acceptance of belated claims, reinforcing the principle of strict adherence to timelines.
- 31.** The plea of the Applicant that administrative delays, correspondence between departments, or notarial deficiencies constitute “sufficient cause” cannot be accepted in light of the judgment of the Hon’ble Supreme Court in *State of West Bengal v. Howrah Municipality* [AIR 1972 SC 749], which categorically holds that government or public bodies stand on the same footing as private litigants for the purpose of limitation.
- 32.** Additionally, the present IA No. 273 of 2022 seeking condonation of delay was filed only on 04.09.2022, i.e., nearly two months after filing of IA No. 229 of 2022, instead of being filed simultaneously. The Applicant has therefore failed to act with due diligence, and the

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belated filing of the condonation application further undermines its plea for condonation.

33. Having considered the facts, the statutory scheme, and the judicial precedents, we are of the view that the Application for condonation of delay is not maintainable, as the delay of 45 days beyond 30.05.2022 cannot be condoned.

34. Even otherwise after auction of all the assets of the Corporate Debtor under liquidation and distribution sale proceeds to all claimants before the present claim was filed, the present claim for which condonation of delay has been sought is barred by delay and laches for which, now no remedial action is possible, and hence no condonation of delay can be granted for such claim.

35. Accordingly, the present Application, IA No. 273 of 2022 seeking condonation of delay is dismissed. Consequently, IA No. 229 of 2022, being barred by limitation, also stands dismissed.

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(Ashish Verma)
Member (Technical)**

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(Praveen Gupta)
Member (Judicial)**

Date: 08.09.2025