NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 1324 of 2026
&
I.A. No. 5174 of 2026

IN THE MATTER OF:

Keshav Kumar Nachani ...**Appellant(s)**

Versus

Encore Asset Reconstruction Company Pvt. Ltd. & Anr. ...**Respondent(s)**

Present:

For Appellant	**:**	Mr. Manoj Munshi, Sr. Advocate with Mr. Jatin Sehagal, Mr. Mayank Munshi, Advocates
For Respondents	**:**	Mr. RP Agrawal, Ms. Reema Mishra, Advocates for R-1.

O R D E R
(Hybrid Mode)

[Per: Justice Mohd. Faiz Alam Khan, Member (Judicial)]

Instant IA No. 5174 of 2026 has been moved by the applicant/appellant in Company Appeal (AT) (Ins) No. 1324 of 2026, which has been filed by the appellant against the impugned order dated 17/4/2026 pronounced by the National Company Law Tribunal Indore Bench (Adjudicating Authority) Indore in CP(IB) No. 60 of 2021, praying to condone the delay of 43 days which has occurred in filing the appeal.

2. We have already heard Shri Manoj Munshi, Ld. Sr. Counsel for the appellant, as well as Shri RP Agarwal, Ld. Counsel appearing for the Respondent No. 1, and have perused the record.

3. Learned Sr. Counsel for the appellant at the outset submits that the impugned order was pronounced on April 17, 2026, however, the appellant was not promptly informed of the passing of the order by his Counsel, who had been conducting the proceedings before the Learned Adjudicating Authority.

4. It is further submitted that immediately upon learning about the passing of the impugned order, the appellant acted with utmost diligence and contacted the present Counsel for the purpose of challenging the impugned order by filing an appeal. The appellant also took immediate steps for obtaining the certified copy by applying on 19th May 2026, which was made available thereafter.

5. It is further submitted that upon receipt of the certified copy and the relevant record, considerable time was necessarily consumed in examining the various pleadings, the report submitted under Section 99 of the Insolvency and Bankruptcy Code, 2016, and the documents relied on by the parties and thereafter, the appeal has been filed.

6. It is further submitted that the delay which has occurred in filing the appeal is neither deliberate nor intentional, and the same has occurred due to the bona fide circumstances narrated herein before. Despite the appellant acting with due diligence, the appeal could not be filed immediately within the time stipulated, and therefore the delay occurred in filing the appeal may kindly be condoned.

7. Ld. Sr. Counsel for Appellant has relied on the law laid down by the Hon'ble Supreme Court in ***Sagufa Ahmed and Others versus Upper Assam Plywood Products Private Limited and others, Civil Appeal Nos. 3007-3008 of 2020, decided on September 18, 2020***.

8. Learned Counsel for the Respondent No. 1 at the outset submits that the appeal has been filed after 43 days (beyond the 45 days) within which the delay may be condoned by this Appellate Tribunal and this Appellate Tribunal does not have jurisdiction to condone the delay.

9. It is further submitted that the precedent which has been relied on by learned counsel for the appellant may not provide any benefit to the Appellant, as the same pertains to the proceedings of the Companies Act and there is a

remarkable difference between Section 421 of the Companies Act and Section 61 of the IBC.

10. While Ld. Counsel for the Respondent submits that the delay has not been properly explained, and the appellant was in knowledge of the impugned order from the date of its filing and has not filed the appeal within the prescribed period, therefore the same is liable to be **dismissed**.

11. We, have heard Ld. Counsel for the parties and have perused the record. It is reflected that the factual situation with regard to the facts of the instant case, so far as the same are related to the limitation, is admitted to the parties. It appears to be an admitted fact that the impugned order was passed on 17 April 2026 and thus, the limitation would start ticking from 18 April 2026, and the 30-day period would be over by 17 May 2026, while the Appeal has been e-filed on 29 June 2026. Thus, the appeal has been filed with a delay of 43 days.

12. Hon'ble Supreme Court in **V Nagarajan v. SKS Ispat and Power Ltd. and Ors.**, ***(2021) ibclaw.in 157 SC***, considered the law laid down in ***Sagufa Ahmad*** as under;

> *"**14.** In Sagufa Ahmed (supra) a three-judge Bench of this Court dealt with the interpretation of Section 421(3) of the Companies Act and whether limitation would start running once a free certified copy is made available to the party, sans an application from the aggrieved party. It held, in the context of a winding up petition under the Companies Act, that the aggrieved party could wait till it received its free copy under Section 420(3) of the Companies Act 2013 read with Rule 50 of the NCLT Rules, and was not obligated to file an application for a certified copy for the purposes of the computation of limitation. Justice V Ramasubramanian held:*
>
> *"12. Therefore, it is true, as contended by the appellants, that the period of limitation of 45 days prescribed in Section 421(3) would start running only from the date on which a copy of the order of the Tribunal is made available to the person aggrieved. It is also true that under Section 420(3) of the Act read*

> *with Rule 50, the appellants were entitled to be furnished with a certified copy of the order free of cost.*
> *13. Therefore* ***if the appellants had chosen not to file a copy application, but to await the receipt of a free copy of the order in terms of Section 420(3) read with Rule 50, they would be perfectly justified in falling back on Section 421(3), for fixing the date from which limitation would start running****....”*

13. After considering the law laid down in ***Sagufa Ahmad (Supra)*** Hon'ble Supreme Court considered the scheme of the IBC and came to the following conclusions;

> ***15.*** *The IBC is a complete code in itself and over-rides any inconsistencies that may arise in the application of other laws. Section 61 of the 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 the NCLAT along within the stipulated period of limitation. The notable difference between Section 421(3) of the Companies Act and Section 61(2) of the 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 the IBC's provisions and the purpose of the legislation.*
>
> ***16.*** *The law on limitation with respect to the IBC is settled and emphatic in its denunciation of delays. The power to condone delay is tightly circumscribed and conditional upon showing sufficient cause, even within the period of delay which is capable of being condoned. The IBC is a watershed legislation which seeks to overhaul the previous bankruptcy regime which was afflicted by delays and indefinite legal proceedings. The IBC sought to structure and streamline the entire process of insolvency, right from the initiation of insolvency to liquidation, as a one-stop mechanism. Section 12(3) of the IBC prescribes a strict time-line for the completion of the corporate insolvency resolution process of one hundred and eighty days which*

is extendable by ninety days. The proviso to Section 12(3) imposes an outer-limit of three hundred and thirty days, including time taken in legal proceedings. While a three-judge bench of this Court in ***Essar Steel India Ltd v. Satish Kumar Gupta [(2019) ibclaw.in 07 SC]*** [21] *held such a time-limit on court proceedings as violative of Article 14, only the word 'mandatorily' was struck down and a narrowly defined extension to the outer-limit was allowed in exceptional circumstances if the process is at a near conclusion and serves the ends of the IBC. Regulation 40A of the Insolvency and Bankruptcy Board of India (Insolvency Resolution Process for Corporate Persons) Regulations, 2016 provides for a detailed model timeline for the corporate insolvency resolution process, including extensions that are granted as discretionary powers under the procedural eventualities of the IBC framework. The Resolution Professional is responsible for ensuring the timeliness of the process and has to file several forms, as detailed under Regulation 40B, and explain all delays that occur in the intervening period, when filing the final Form H upon submitting a successful resolution plan under Section 30 of the IBC. Notably, Section 64*[23] *of the IBC imposes an obligation on the NCLT and NCLAT to expeditiously dispose applications pending before it, along with recording of reasons for any delay from the prescribed limit to the President of the NCLT/NCLAT,"*

*"**17.** In this background, when timelines are placed even on legal proceedings, reading in the requirement of an "order being made available" under a general enactment (Companies Act) would do violence to the special provisions enacted under the IBC where timing is critical for the workability of the mechanism, health of the economy, recovery rate of lenders and valuation of the corporate debtor. The IBC, as a prescriptive mechanism, affecting rights of stakeholders who are not necessarily parties to the proceedings, mandates diligence on the part of applicants who are aggrieved by the outcome of their litigation. An appeal, if considered necessary and expedient by an aggrieved party, is expected to be filed forthwith without awaiting a free copy which may be received at an indefinite stage. Hence, the omission of the words "from the date on which the order is made available" for the purposes of computation of limitation in Section 61(2) of the IBC, is a consistent signal of the intention of the legislature to nudge the parties to be proactive and facilitate timely resolution."*

(Emphasis ours)

> ***18.*** *On the question of a certified copy for filing an appeal against an order passed by the NCLT under the IBC, Rule 22(2) of the NCLAT Rules mandates that an appeal has to be filed with a certified copy of the 'impugned order':*
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> > *"22. Presentation of appeal. – (1) Every appeal shall be presented in Form NCLAT-1 in triplicate by the appellant or petitioner or applicant or respondent, as the case may be, in person or by his duly authorised representative duly appointed in this behalf in the prescribed form with stipulated fee at the filing counter and non-compliance of this may constitute a valid ground to refuse to entertain the same.*
> >
> > ***(2) Every appeal shall be accompanied by a certified copy of the impugned order…."***
> >
> > ***(emphasis supplied)***

Therefore, it cannot be said that the parties can automatically dispense with their obligation to apply and obtain a certified copy for filing an appeal. Any delay in receipt of a certified copy, once an application has been filed, have been envisaged by the legislature and duly excluded to not cause any prejudice to a litigant's right to appeal. Hon'ble Supreme Court in ***V Nagararjan (Supra)*** further held as under:

> ***"19.*** *Section 12 of the Limitation Act provides guidance on reckoning the period of limitation and excludes the time taken by a party for obtaining a certified copy of the order it seeks to appeal. However, the explanation clarifies that the time taken by the court in preparing the order <u>before</u> an application for a copy is filed by the aggrieved party, is not excluded from the computation of limitation:*
>
> > *"12. Exclusion of time in legal proceedings. — (1) In computing the period of limitation for any suit, appeal or application, the day from which such period is to be reckoned, shall be excluded.*
> >
> > *(2)* ***In computing the period of limitation for an appeal or an application for leave to appeal or for revision or for review of a judgment, the day on***

> ***which the judgment complained of was pronounced and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be revised or reviewed shall be excluded.***
>
> *(3) Where a decree or order is appealed from or sought to be revised or reviewed, or where an application is made for leave to appeal from a decree or order, the time requisite for obtaining a copy of the judgment 3[* * *] shall also be excluded.*
>
> *(4) In computing the period of limitation for an application to set aside an award, the time requisite for obtaining a copy of the award shall be excluded.*
>
> *Explanation. —**In computing under this section the time requisite for obtaining a copy of a decree or an order, any time taken by the court to prepare the decree or order before an application for a copy thereof is made shall not be excluded.”***
>
> ***(emphasis supplied)***

The import of Section 12 of the Limitation Act and its explanation is to assign the responsibility of applying for a certified copy of the order on a party. 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 the 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, the NCLAT had dismissed an appeal as time-barred under Section 61(2) of the 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.*

20. *The appellant had argued that the order of the NCLAT notes that the NCLT registry had objected to the appeal in regard to limitation, to which the appellant had filed a reply stating that the limitation period would begin from the date of the uploading of the order, which was 12 March 2020. The appellant submitted that the suo motu order of this Court dated 23 March 2020, taking retrospective effect from 15 March 2020, made under Article 142 of the Constitution, extended the limitation until further orders, which renders the appeal filed on 8 June 2020 within limitation. However, it is important to note that this Court had only extended the* <u>*period*</u> *of limitation applicable in the proceedings, only in cases where such period had not ended before 15 March 2020. In this case, owing to the specific language of Section 61(1) and 61(2), it is evident that limitation commenced once the order was pronounced and the time taken by the Court to provide the appellant with a certified copy would have been excluded, as clarified in Section 12(2) of the Limitation Act, if the appellant had applied for a certified copy within the prescribed period of limitation under Section 61(2) of the IBC. The construction of the law does not import the absurdity the appellant alleges of an impossible act of filing an appeal against an order which was uploaded on 12 March 2020. However, the mandate of the law is to impose an obligation on the appellant to apply for a certified copy once the order was pronounced by the NCLT on 31 December 2019, by virtue of Section 61(2) of the IBC read with Rule 22(2) of the NCLAT Rules. In the event the appellant was correct in his assertion that a correct copy of the order was not available until 20 March 2020, the appellant would not have received a certified copy in spite of the application till such date and accordingly received the benefit of the suo motu order of this Court which came into effect on 15 March 2020. However, in the absence of an application for a certified copy, the appeal was barred by limitation much prior to the suo motu direction of this court, even after factoring in a permissible fifteen days of* *condonation under Section 61(2). The Court is not empowered to condone delays beyond statutory prescriptions in special statutes containing a provision for limitation.*

D Conclusion

21. *The answer to the two issues set out in Section C of the judgement- (i) when will the clock for calculating the limitation period run for proceedings under the IBC; and (ii) is the annexation of a certified copy mandatory for an appeal to the NCLAT against an order passed under the IBC – must be based on a harmonious interpretation of the applicable legal regime, given that the IBC is a Code in itself and has overriding effect. Sections 61(1) and (2) of the 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 the 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 the 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 and prevent limitation from running. Accepting such a construction will upset the timely framework of the 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.*

(Emphasis Ours)

22. *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 the 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 re-iterated 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 the NCLAT as clearly barred by limitation."*

14. In **Tata Steel Ltd. Vs Raj Kumar Banerjee, (2025) ibclaw.in 177 SC,** Hon'ble Supreme Court held as under;

> *"**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 [(2017) ibclaw.in 01 SC], 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 [(2021) ibclaw.in 40 SC] 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."*

15. It is crystal clear that the appellants were represented before the NCLT on 17.04.2026 when impugned order was passed/pronounced. The appellant has demonstrated no effort on their part to secure certified copy of the said orders within the stipulated period of 30 days and though no documentary proof has been placed on record to show that Appellant has applied for certified copy of order on 19/05/2026, but for the sake of argument even if it is believed the appellant may not get any benefit of the same as the certified copy has been applied after 30 days of pronouncement

of the order. The period of limitation for filing the appeals under Section 61(1) against the orders of the NCLT 17.04.2026, expired on 17.05.2026 in view of the thirty-day period prescribed under Section 61(2) of the Code. Any scope for condonation of delay expired on 01/06/2026, in view of the expiry of outer condonable limit of 15 days prescribed under the proviso to Section 61(2).

16. Therefore, keeping in view all the facts and circumstances of this case, we are of the considered view that the impugned order was pronounced 17.04.2026, and since the appeal was, filed on 29 June 2026, beyond the stipulated 45 days, while this appellate tribunal has jurisdiction only to condone the delay up to 15 days, beyond the stipulated 30 days, thus, the application moved by the appellant to condone the delay of 43 days appears to be not maintainable and is **dismissed** as such.

17. Since the delay condonation application has been dismissed, the Appeal is also **dismissed**.

[Justice Mohammad Faiz Alam Khan]
Member (Judicial)

[Naresh Salecha]
Member (Technical)

New Delhi
02.09.2026
sr