

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
AT CHENNAI

(APPELLATE JURISDICTION)

IA No. 135 / 2026

in

Company Appeal (AT) (CH) (Ins) No. 54/2026
(IA Nos. 136 & 137/2026)

In the matter of :

Harish Shah,

No. 7161, Lumbini Square,
127A, Briklín Road, Purasaiwalkam,
Veppery, Chennai – 600 007

.... Appellant

V

Mr. Ramakrishnan Sadasivan,

Resolution Professional of

M/s. Lokaa Developer Pvt. Ltd.

Old No.22, New No. 28 Menod Street,
Purasawalkam, Chennai – 600 007

.... Respondent

Present:

For Appellant : Ms. Pavithra Dayalan, Advocate
For Dr. S. Sathiyarayanan, Advocate

For Respondent : Mr. Ravi Rajagopalan, Advocate

WITH

IA No. 142 / 2026

in

Company Appeal (AT) (CH) (Ins) No. 56/2026
(IA Nos. 141 & 143/2026)

In the matter of :

Ms. Avantika P Mehta,

53, Audiappa Naicken Street,
Elephant Gate, Chennai – 600 001

.... Appellant No.1

Ms. Ankita Sanatbhai Shah,
Opp: 24 Daulat Society,
VISAMO, Near Utkarsh Vidyalaya,
Race Course, Vadodara,
Gujarat – 390 015

.... Appellant No. 2

Keerthu Enterprises,
No. 89, 1st Floor, Narayana Mudali Street,
Sowcarpet, Chennai – 600 079

.... Appellant No. 3

Nitesh N Shah,
143, Vaibhav Apartment,
62, EVK Sampath Road,
Veppery, Chennai – 600 007

.... Appellant No. 4

Manish N Shah,
343, Vaibhav Apartments,
62, EVK Sampath Road,
Veppery, Chennai – 600 007

.... Appellant No. 5

Bharat M Shah,
1C, Green Meadows Colony,
Kilpauk Garden 1st Street,
Opp: Anita Sarees, Kilpauk,
Chennai – 600 010

.... Appellant No. 6

V

Mr. Ramakrishnan Sadasivan,
Resolution Professional,
Lokaa Developer Pvt. Ltd.
Old No.22, New No. 28 Menod Street,
Purasawalkam, Chennai – 600 007

.... Respondent

Present:

For Appellants : Ms. Pavithra Dayalan, Advocate
For Dr. S. Sathiyarayanan, Advocate

For Respondent : Mr. Ravi Rajagopalan, Advocate

ORDER
(Hybrid Mode)

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

These are the two Company Appeals, being Company Appeal (AT) (CH) (INS) No. 54 / 2026 and Company Appeal (AT) (CH) (INS) No. 56 / 2026, which are listed today for consideration.

The Interlocutory Applications, being **IA No. 135 / 2026 & IA No. 142 / 2026** has been respectively preferred in the two Company Appeals wherein the prayer has been made by the Appellant for condonation of 14 days of delay that has chanced in preferring the Company Appeals.

2. The precise facts for consideration are that;

The Appellant in the instant Company Appeal being Company Appeal (AT) (CH) (INS) No. 54 / 2026, happens to be an unsecured Financial Creditor / Home Buyer of the Corporate Debtor i.e. M/s. Lokaa Developer Pvt. Ltd., whose claim is in relation to Flat No. 2001 as located in ``M1'' Project was admitted. But, since the flat was double booked and under the approved Resolution Plan, he was denied any flat or a definite payout and was restrictively left confined only to certain speculative, contingent and uncertain recoveries from the avoidance transactions, which happens to be in distinction to other 192 similarly placed home buyers who had received their flats. The Appellant contended that, he had initially voted for the Plan on the basis of incomplete information, but later, withdrew the support, and now he challenges the Impugned Order of 28.10.2025.

3. The Ld. Adjudicating Authority by virtue of the impugned order of 28.10.2025 as passed in IA (IBC) / Plan / 11 (CHE) / 2024, as preferred in CP (IB) / 124 (CHE) / 2023, while exercising its jurisdiction under Section 30(6) of I & B Code, to be read with Section 60(5) of I & B Code, 2016, had accorded an approval to the Resolution Plan, submitted by Successful Resolution Applicant being, M one Flat Owners Association.

4. In accordance with the Affidavit that has been filed by the Appellant in support of the Memorandum of Appeal, it is shown to have been verified and sworn on 11.12.2025, and in accordance with the report of the Registry, the Appeal was efiled before the Registry on 13.12.2025, wherein the Registry has reported that there happens to be a delay of 16 days, that has chanced in preferring the Appeal. The Appeal is accompanied with a Condone Delay Application being IA No. 135 / 2026, where the Appellant has mentioned and sought a condonation of 14 days of delay that, has chanced in preferring the Appeal, which has been otherwise reported by the Registry to be 16 days.

5. If the grounds taken in the Application thus preferred for seeking condonation of delay is considered, the Appellant has submitted that the impugned order dated 28.10.2025 came to the knowledge of the Appellant, only on intimation made by Resolution Professional and upon uploading of the order on the E-portal of the Ld. NCLT on 30.10.2025 and that, he had filed the Appeal by preferring the same before the Registry of this Appellate Tribunal on 13.12.2025. He submits that, the reasons

for the said delay has been given in Para 2(f) which are that the Appellant had to obtain the copy of the Impugned Order, and thereafter he had to get the relevant pleadings formulated after seeking proper legal advice for the purposes of putting a challenge to the impugned order, and to collate the records and it was only after collating the records, he could prefer on 13.12.2025.

Hence, he submits that, the computation of limitation should start from the date of uploading of the order, and in that case, the delay in filing is of 14 days which deserves to be condoned, on account of the grounds narrated as above and being within the condonable period of 15 days and the Appeal ought to be entertained on merits.

6. The application for condonation of delay being IA No. 135 / 2026, is vehemently opposed by the Respondent's Counsel by filing an objection to it, contending thereof that, the Appeal has been preferred belatedly, i.e. beyond the prescribed maximum period of 45 days (i.e., the actual period of limitation of 30 days and the 15 days condonable period as prescribed under law), from the date of the pronouncement of the order. He contended that the delay becomes material since the Appellant happens to be the member of the Committee of Creditors, and he was fully aware of the proceedings of the CIRP. Besides, since the Appellant had 0.11% voting share and had not dissented against the Plan by voting against the same, he may not have any logic or reasons to belatedly prefer the Appeal against the approval of the Plan.

7. The Respondent's Counsel submits that, the order was pronounced in the Open Court by the Ld. Adjudicating Authority on 28.10.2025. Hence, the limitation has to be construed from the date of the pronouncement, and the date of uploading of the impugned order becomes irrelevant.

Thus, on the basis of the aforesaid objection, he contends that, if 30 days period is construed from the date of the pronouncement of the order, it would be ending on 27.11.2025 and since the Appellant has not made any efforts for procuring the Certified copy of the order and even the Appeal has been preferred on the basis of the xerox copy of the order, even without obtaining the Certified copy, there would be no exclusion, which could be provided to the Appellant under Section 12(2) of the Limitation Act.

8. Respondent further submits that, even if the period of 15 days of the condonable period is added, the last day of limitation, to prefer the Appeal would be falling on 12.12.2025, whereas the Appeals, as well as the Interlocutory Applications for condonation, were filed on 13.12.2025. Hence, it would not be falling under the exceptions enabling condonation for the reason being that, the Appeal has been preferred on the 46th day, which is beyond the condonable period by one day and it is not condonable in accordance with the provisions as contained under Section 61 of the Code, which is a self contained provision including the aspect of determination of limitation, for the Appeals under Section 61 of the Code.

9. Based upon the aforesaid argument, the Ld. Counsel for the Respondent had submitted that, according to his determination, the pronouncement of the date becomes relevant for the purposes of considering the aspect of limitation for which, he has given the following determination:

8. The computation of the Limitation time period is as under:-

S No	Event descriptions	Timelines -Days
<i>A</i>	<i>Date of Pronouncement of Order in the Intervention Petition</i>	<i>28-10-2025</i>
<i>B</i>	<i>The limitation period of 30 days together with the 15 days condonation expired on</i>	<i>12-12-2025</i>
<i>C</i>	<i>Date of filing the appeal by Appellant</i>	<i>13-12-2025</i>
<i>D</i>	<i>Less Period consumed under section 12(2) of the Limitation Act (no certified copy obtained within the 30 days)</i>	<i>0</i>
<i>E</i>	Total number of days taken to file the appeal (C-A+D)	46
<i>F</i>	<i>Maximum Limitation period (including the condonable period of 15 days)</i>	<i>45</i>

10. He further drew the attention of this Tribunal to the Application preferred by the Appellant being IA No. 136 / 2026, seeking a dispensation from filing the Certified copy of the order. In relation thereto, he has argued that in Para 2(f) of the Condone Delay Application, the Appellant has stated that **“it is submitted that the delay was due to the time taken by the Applicant / Appellant to obtain the copy of the impugned order”**, the said plea is contrary to the fact that the Appellant

himself has preferred an application for seeking exemption from filing the Certified copy of the order.

11. The said application for exemption being IA No. 136 / 2026 does not contain any pleading to the effect that the Appellant had ever, even after getting the knowledge of the order of the proceedings in which he was participating as one of the members of the CoC, had ever applied for obtaining the Certified copy. Hence, the ground taken in the Condone Delay Application that, there was delay in procuring Certified copy of the order itself is not sustainable.

12. Ld. Counsel for the Respondent has further contended that because of the aforesaid facts and in the light of the restrictions imposed by the provisions contained under sub-section (2) of Section 61 i.e. the Appellate provision, the delay in filing the Appeal cannot be condoned. For the purposes of convenience, sub-section (2) of Section 61 of I & B Code, 2016, is extracted hereunder:

“(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.”

In the instant case, even if the benefit of condonable period of 15 days is extended, the upper limit of 45 days would be expiring on 12.12.2025, and since the

Appeal has been preferred on 13.12.2025, by e-filing of the same before the Registry, the delay exceeds the maximum limit by one day, which cannot be condoned.

13. In support thereto, the Respondent had made reference to the Judgment of Hon'ble Apex Court as rendered in **Civil Appeal Nos. 11070-11071 of 2024 in the matters of Mr. A. Rajendra v. Gonugunta Madhusudhan Rao & Ors.**, he made reference to Paras 17, 20 & 21, which are extracted hereunder:-

“17. This Court had an occasion to deal with a question regarding the primacy of the provisions of IBC vis-à-vis the Companies Act, 2013 in **V Nagarajan Vs. SKS Ispat and Power Limited** [2021] 14 SCR 736. The primary contention raised by the appellants therein was the non-availability of the certified copies of the Order and exclusion of their period of non-availability from the period of limitation for filing appeal under Section 61(2) of the IBC, 2016. This Court while dealing with Section 421(3) of the Companies Act, 2013 and Section 61(2) of IBC adopted a purposive interpretation and observed that the use of phrase “from the date on which a copy of the Order of the Tribunal is made available to the person aggrieved” in Section 421(3) of the Companies Act, 2013 is indicative of the overt intention of the legislature to commence the period of limitation only upon the receipt of certified copies of the order by the aggrieved party. However, the scheme of Section 61 of the IBC, 2016 does not contain the condition for commencement of period of limitation only after obtaining a certified copy of the Order. Thereby refuting the justification of non-availability of certified copy of the Order offered for delay in filing the appeal. While harmoniously approaching and reading the Code and the provisions of the Companies Act, 2013, primacy of Code was said to be established being the intent of the legislature. This Court did not allow the litigants to await the receipt of certified copies as it would upset the time bound framework of IBC if Section 421 of the Companies Act, 2013 is allowed to operate. The limitation thus, starts from the date of pronouncement of the Order and not from the date the Order is made available to the parties.

20. Mandate of Rule 22(2) of NCLAT Rules has to be complied with which requires certified copy to be annexed along with appeal which binds a litigant

under the IBC. The appellant having failed to apply for certified copy renders appeal filed before the NCLAT as clearly barred by limitation.

*21. This Court in **Cethar Limited (Resolution Professional) Vs. SKS Ispat & Power Ltd.** (2002) 2 SCC 244 held that the appellant did not even attempt to secure a certified copy and only relied on the date of uploading the Order on the website that is 12.03.2020 whereas the pronouncement in open Court was on 31.12.2019 and that too in the presence of the appellant before NCLT. This Court denied the benefit of condonation of delay on account of absence of any effort on the part of the appellant within the statutory period of limitation to obtain the certified copy of the impugned Order therein.’’*

14. Based on the aforesaid ratio, the Ld. Counsel for Respondent summarised his objection from the following perspective.

(a) The Appellant was the member of the CoC;

(b) The Appellant had voted for the Plan;

(c) The knowledge would be deemed to be with them; and

(d) Not being a party to the proceedings would be irrelevant as there would be a presumption of notice and knowledge to the Appellant and hence, once the order is pronounced in the Open Court, the limitation period for the purposes of sub-section (2) of Section 61 of the Code, would commence from the date of the pronouncement and that too, particularly under the facts of the instant case, where there is nothing on record to show that the Appellant had ever applied for procuring the Certified copy of the order within the period of limitation as prescribed under law.

In that eventuality, the limitation has to be construed from the date of pronouncement and not from the date of uploading.

15. The Respondent's Counsel has also made reference to the Judgment as rendered by the Hon'ble Apex Court in ***Civil Appeal Nos. 7467 - 7468 of 2023 in the matters of Sanjay Pandurang Kalate v. Vistra ITCL (India) Limited and Ors.***, which has laid down the same principle, based upon the ratio as propounded in the matters of ***V. Nagarajan v. SKS Ispat And Power Ltd.***, and submitted that, once the orders have been pronounced in the Open Court and it is put to challenge by a person or a party, who has effectively participated in the proceedings, the limitation has to be construed from the date when the order is pronounced.

16. Lastly, the Ld. Counsel for the Respondent had referred to yet another Judgment of Hon'ble Apex Court as rendered in ***Civil Appeal No. 10603 of 2024 in the matters of Ashdan Properties Pvt. Ltd. & Ors. v. DSK Global Education and Research Pvt. Ltd. & Anr.*** While referring to Para 10 of the said Judgment, which had considered the effect of Para 25 of ***V. Nagarajan v. SKS Ispat And Power Limited***, on the determination of limitation for Appeals filed under Section 61 of the Code, he has submitted that, the ratio that has been propounded by the Hon'ble Apex Court in Para 10 in the matters of ***Ashdan Properties Pvt. Ltd. & Ors. v. DSK Global Education And Research Pvt. Ltd. & Anr.***, after taking into account the ratios of ***A. Rajendra (supra)***, and the earlier Judgment of ***V. Nagarajan (supra)***, is that the limitation under Section 61(2) of IBC shall commence from the date of the

pronouncement of the order and in the case of a non-pronouncement of the order when the hearing concludes, from the date of uploading of the order on the website. Relevant Para 10 of the Judgment of Ashdan Properties Pvt. Ltd. (supra) is extracted hereunder:-

“10. The recent three-Judge Bench judgment of this Court in A Rajendra vs. Gonugunta Madhusudhan Rao and others (2025 INSC 447) affirmed this legal position. Copious reference was made by the Bench to the earlier decision in V Nagarajan (supra) and other case laws and it was observed that the incident which triggers limitation to commence is the date of pronouncement of the order and in a case of non-pronouncement of the order when the hearing concludes, the date on which the order is pronounced or uploaded on the website. It was pointed out that when the judgment is pronounced in open Court, the period of limitation would start running from that very day and an appellant would be entitled to seek relief under Section 12(2) of the Limitation Act, 1963, to exclude the period during which a certified copy was under preparation, if an application was made therefor within the period of limitation.”

17. Thus, the issue has now been fully settled by precedents that, for the purpose of filing Appeal u/s. 61 of IBC, when the Judgment order is pronounced in the Open Court, the period of limitation would start running from the date when the Judgment was pronounced and not otherwise. The same was held in categorical terms in **Sanjay Pandurang Kalate v. Vistra ITCL (India) Limited and Ors.** The relevant Para 13 is extracted hereunder:

“13. In V Nagarajan (supra), a three-judge Bench of this Court noted that the significant difference between Section 421(3) of the Companies Act and Section 61(2) of the IBC is 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 Court held that limitation commences from the date of pronouncement and not the date of upload of the order or receipt of a certified copy. However, the Court expressly clarified that the time taken to procure the certified copy will be excluded from the calculation of the period of limitation, provided the appellant applies within the prescribed period of limitation under Section 61(2) of the IBC.’’

18. Owing to the aforesaid and since we do not have a scope of condonation of delay, beyond the condonable period under proviso to Section 61(2) of the Code, since the aspect of limitation is specifically governed under the special statute, which is a self contained provision having no scope of deviation, and since the delay is beyond the condonable period, which cannot be extended, we hold that the Company Appeal is barred by limitation having been preferred on 13.12.2025, being the 46th day from the date of the pronouncement of the order which happened to be 28.10.2025.

Hence, IA No. 135 / 2026 would stand rejected being outside the proviso of Section 61(2) of the Code and as a consequence thereto, the Company Appeal (AT) (CH) (INS) No. 54 / 2026 would too stand dismissed, as being barred by limitation.

In the connected Company Appeal, being Company Appeal (AT) (CH) (INS) No. 56 / 2026, the Appellant by filing the Application IA No. 142 / 2026 has sought a condonation of delay of 14 days, which again is of actually 16 days as reported by the Registry. Since all the issues and facts remain common, in this Application too, the IA No. 142 / 2026, would stand rejected based on same reasoning and

consequently, the Company Appeal, being Company Appeal (AT) (CH) (INS) No. 56 / 2026 would too stand dismissed, as being barred by limitation.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Jatindranath Swain]
Member (Technical)

13/04/2026

SR/MS/AK