NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

Company Appeal (AT) (Insolvency) No. 607 of 2025
&
I.A. No. 2333 of 2025

(Arising out of the Rectified Order dated 12.02.2025 passed by the 'Adjudicating Authority' (National Company Law Tribunal, Jaipur Bench) in C.P. (IB) No. 79/9/JPR/2021)

IN THE MATTER OF:

Sturdy Industries Limited
(CIN: L25209HP1989PLC009557)
Through its Resolution Professional
Having registered office at:
Plot No. 57, First Floor, Sector 1,
Parwanoo, District-Solan,
Himachal Pradesh-173220

Resolution Professional office at:
Plot no. 6, First Floor, State Bank of India,
Paschim Vihar, New Delhi-110063. **...Appellant**

Versus

Surya Irrigation Private Limited
(CIN: U27100RJ1994PTC010062)

Having registered office at:
F-1088, RIICO Industrial Area,
Phase- III, Bhiwadi, Rajasthan-301019 **...Respondent**

Present:

For Appellant : Mr. Rishi Singhal and Ms. Reema Khanneotra, Advocates

For Respondent : Mr. Ashish Kumar Singh, Ms. Amrita Sarkar, Mr. Gitesh Sinha and Mr. Kartik Gupta, Advocates.

J U D G M E N T
(Hybrid Mode)

[Per: Arun Baroka, Member (Technical)]

This appeal is filed under Section 61 of the Insolvency and Bankruptcy Code, 2016 ("the Code"). It challenges the order dated 06.11.2024 passed by the National Company Law Tribunal, Jaipur Bench ("Adjudicating Authority"), in C.P. (IB) No. 79/9/JPR/2021, as rectified vide order dated 12.02.2025 ("impugned order"). By the impugned order, the Adjudicating Authority dismissed the Section 9 petition filed by the Appellant, an Operational Creditor, seeking initiation of Corporate Insolvency Resolution Process ("CIRP") against the Respondent, a Corporate Debtor. The present appeal is filed under Section 61(1) of the Code against the rectified order dated 12.02.2025 read with original order dated 06.11.2024) ("Impugned Order") passed by the Ld. Adjudicating Authority, National Company Law Tribunal, Jaipur Bench, whereby the Ld. Adjudicating Authority has dismissed the application filed by the Appellant under Section 9 of the Insolvency and Bankruptcy Code, 2016.

Brief relevant facts are as follows:

2. The Respondent used to purchase goods from the Appellant during 2014-15. Invoices were raised on each delivery. Payments were made from time to time, and the accounts stood settled and reconciled till 23.02.2015. The Appellant's own pleadings, at Part IV of the Section 9 petition, record the date of default as 07.03.2015. Between 2015 and 2021, the Appellant claims to have made repeated requests for payment, without success. A demand notice dated 10.03.2021 was issued under Section 8 of the Code and served on the Respondent on 12.03.2021.

3. The Section 9 petition came to be filed on 23.09.2021 — over six years after the stated date of default.

4. The Respondent resisted the petition on the grounds of limitation and pre-existing dispute. It placed on record a courier dated 19.01.2017, and emails dated 17.02.2018, 24.07.2018, 25.07.2018, 30.07.2018, 02.08.2018 and 04.08.2018, disputing the correctness of the figures claimed by the Appellant and raising issues of set-off and reconciliation with group companies.

5. The Appellant, in turn, relied on three balance confirmation letters dated 14.12.2017, 30.05.2018 and 22.05.2019, to contend that limitation stood extended under Section 18 of the Limitation Act, 1963. These three letters record three different outstanding figures — ₹4,73,31,706/-, ₹3,05,58,222/-, and ₹2,44,46,578/-, respectively.

6. By order dated 06.11.2024, the Adjudicating Authority dismissed the petition. It held the petition barred by limitation, found the balance confirmations undated and unproved, and further held that the correspondence exchanged between the parties disclosed a pre-existing dispute.

7. On an application moved by the Respondent, certain clerical errors in the order dated 06.11.2024 — concerning the date of pronouncement — were corrected vide order dated 12.02.2025. This rectification did not alter or modify any substantive finding on limitation or dispute.

8. Meanwhile, the Appellant company itself entered CIRP, with an Interim Resolution Professional appointed on 06.06.2024. The Committee of Creditors

resolved on 26.12.2024 to prefer an appeal. A first appeal, filed on 28.01.2025, remained defective and was not pursued. The present appeal was filed thereafter. The Appellant's own application for condonation of delay admits a delay of 125 days in filing the appeal, reckoned from the order dated 06.11.2024.

Submissions of the Appellant

9. The appeal is filed under section 61 of Insolvency and Bankruptcy Code, 2016 against the impugned rectified order dated 12.02.2025 read with original order dated 06.11.2024, passed by the National Company Law Tribunal, Jaipur Bench, vide C.P. (IB) No.79/9/JPR/2021).

10. The present appeal is within the prescribed period of limitation from the date of receipt of the impugned rectified order, which was received only on 22.02.2025, as the impugned order dated 06.11.2024 attained finality only after passing of the impugned rectified order dated 12.02.2025 by the Hon'ble NCLT, Jaipur.

11. The impugned rectified order dated 12.02.2025 read with original order dated 06.11.2024 is not sustainable and the same merits to be set aside on the following grounds: -

- Adjudicating Authority failed to consider the balance confirmation letter of the Corporate Debtor to M/S Prakash Ved & Co., Chartered Accountants, the forensic auditors, appointed by Punjab National Bank, due to which the period of limitation extended.

- Adjudicating Authority failed to consider that the Respondent has admitted the receipt of balance confirmation letter dated 14.12.2017, dated 30.05.2018 and dated 22.05.2019 sent by the Appellant to the respondent.

- Adjudicating Authority failed to consider that the Respondent in its reply has not denied the receipt of goods and has admitted that no payments being made for the goods, and the due debts are unilaterally adjusted by Respondent with other creditor account.

- The claim of the appellant is not disputed at all by the respondent and thus the same squarely falls within the definition of operational debt as prescribed in section 5 (21) of the Insolvency and bankruptcy Code, 2016.

- Adjudicating Authority failed to consider that the Respondent has admitted that it has sent ledger account in its books of the Appellant through various emails dated 17.02.2018, 24.07.2018 & 25.07.2018, 30.07.2018, 02.08.2018 & 04.08.2018.

- Adjudicating Authority failed to consider that the acknowledgement of liability under Section 18 of the Limitation Act revived / extended the limitation period, on account of written acknowledgment of the respondent of the operation debts own by it to the Appellant company. Besides the extension of the said limitation period U/S 14 of the I & B Code, 2015 due to pendency of CIRP of the Appellant company before adjudicating authority.

- The respondent has never raised any bonafide/genuine dispute qua its liability towards the appellant, rather, whatever dispute has been raised, they were only superficial in nature, without any substance and the same cannot be called/conferred as dispute within the ambit and scope of I & B Code, 2015.

- On account of inadvertent omission and bonafide mistake in the letter dated 25.11.2019, it has been wrongly mentioned regarding credit balance confirmation of ₹1,61,37,994/- and the respondent cannot take undue advantage of the said bonafide mistake and that too after confirming the outstanding dues by balance confirmation letter. Furthermore, Hon'ble Adjudicating Authority failed to consider and do the proper analysis of the documents placed on record including invoices, correspondence and balance confirmations by the appellant while passing the impugned order.

- The demand notice was returned as the respondent had manage the same with the postal department and the said conduct of the respondent is clear from the fact that it has not disputed its address mentioned on the envelop contain the said notice.

- Adjudicating authority failed to consider the nature of the transactions between the parties and the continuous demand being raised within the statutory period shows a continuous cause of action.

12. In view of the aforesaid brief submissions, it is most humbly prayed that this Hon'ble Tribunal be pleased to set aside the impugned rectified order dated 12.02.2025 and original order dated 06.11.2024 as well as please to order, the commencement of CIRP of the respondent, in the end of justice.

Submissions of the Respondent

13. The Appellant filed a Section 9 application being C.P. (IB) No. 79/9/JPR/2021 before the Hon'ble NCLT, Jaipur Bench seeking initiation of CIRP against the Respondent on the basis of alleged operational dues said to have arisen in 2014-2015. The alleged default date as claimed by the Appellant is 07.03.2015 as recorded in the Appellant's own pleadings (Part IV, Section 9 Petition).

14. The Appellant filed the Section 9 petition on 23.09.2021, admittedly more than six years after the alleged default, and far beyond the three-year limitation prescribed under Article 137 of the Limitation Act, 1963.

15. The Respondent had repeatedly raised disputes regarding reconciliation of accounts, set-offs due, and incorrect figures supplied by the Appellant. These disputes were communicated through courier dated 19.01.2017 and emails dated 17.02.2018, 24.07.2018, 25.07.2018, 30.07.2018, 02.08.2018, and 04.08.2018.

16. The Appellant issued balance confirmations dated 14.12.2017, 30.05.2018 and 22.05.2019 respectively for an amount of ₹4,73,31,706/-;

₹3,05,58,222/- and ₹2,44,46,578/- showing drastically different figures from those claimed in the Section 9 petition, clearly proving the existence of serious disputes.

17. Ld. NCLT by order dated 06.11.2024 dismissed the Section 9 petition as barred by limitation, holding that the balance confirmation relied upon was undated, unproved, and insufficient to extend limitation under Section 18 of the Limitation Act. The Appellant has now filed the present appeal after an admitted delay of 125 days, seeking to reopen a time-barred claim already rejected by the Adjudicating Authority. Thus, the present appeal is wholly devoid of merit and liable to be dismissed.

18. The Present Appeal Is barred by Limitation as under Section 61(2) of the Insolvency & Bankruptcy Code 2016, an appeal must be filed within 30 days, extendable by 15 days only. The Appellant's own pleadings admit a delay of 125 days, which is not condonable in law.

19. Rectified order correcting some clerical errors was issued by the Adjudicating Authority on 12.02.2025. Appellant's plea that limitation must be computed from the rectified order dated 12.02.2025 is wholly misconceived. The rectification merely corrected clerical errors and did not alter the findings. Recourse to limitation cannot be revived on clerical rectification. That the Hon'ble NCLAT and Supreme Court have repeatedly held that rectification does not extend limitation unless substantive findings change, which is not the present case. Judgements relied on this issue are:

- **Industrial Forgings Industries Pvt. Ltd. Vs. A2Z Infra Engineering Ltd. Company Appeal (AT) (Insolvency) No.1470 of 2024 (Para No. 7).**

- **Yerramaneni Ramakrishna and Others Vs Suraksha Realty Ltd. and Others (2024 SCC OnLine NCLAT 1036) (Para No. 11).**

20. The judgment of the Hon'ble Supreme Court in [1]**B.K. Educational Services Pvt. Ltd. v. Parag Gupta & Associates (2019) 11 SCC 633** is squarely applicable to the present matter as it conclusively settles that Article 137 of the Limitation Act, 1963 governs all applications under the IBC, including those under Section 9, and that the right to apply arises strictly from the date of default, after which a limitation period of three years applies. The Supreme Court categorically held that the IBC cannot be used to revive or enforce time-barred claims, and that only a valid acknowledgment under Section 18 of the Limitation Act, 1963 made before the expiry of the 3-year period, can extend limitation. Thus the finding is correctly recorded in the NCLT order.

21. Respondent also claims that Section 18 Limitation Act does not apply as there is no valid acknowledgement. The Appellant relied upon an undated, unproved, and disputed balance confirmation. Ld. NCLT correctly held that such a document cannot constitute acknowledgement under Section 18 of the Limitation Act, 1963. Even otherwise, an acknowledgement must be before

[1]**B.K. Educational Services Pvt. Ltd. v. Parag Gupta & Associates** (2019) 11 SCC 633.

the expiry of limitation and must be unequivocal. None of the documents relied upon by the Appellant meet these statutory requirements.

22. Respondent also brings to our notice that there was a pre-existing dispute and the Section 9 petition was not maintainable. The Respondent had raised clear and substantial pre-existing disputes much prior to the issuance of the demand notice dated 10.03.2021 and the filing of the Section 9 petition. The Respondent had repeatedly disputed the alleged claim through (i) courier dated 19.01.2017 addressed to the Appellant's office, and (ii) multiple emails dated 17.02.2018, 24.07.2018, 25.07.2018, 30.07.2018, 02.08.2018 and 04.08.2018, wherein detailed ledger accounts, set-offs, and outstanding balances of group companies were communicated, unequivocally challenging the correctness of the Appellant's figures. Under the law laid down in [2]**Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd CIVIL APPEAL NO. 9405 of 2017,** if there exists a plausible dispute, the Adjudicating Authority must reject the Section 9 application. The NCLT correctly held that disputes existed and the claim was not crystallized. The present appeal does not rebut these findings.

23. Respondent claims that this is an attempt to misuse IBC and the petition has been filed to evade the Bank's NPA proceedings. The Appellant was declared NPA on 30.09.2020 by its bankers, and the Section 9 petition was filed only thereafter, showing an ulterior motive to get the benefit of

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[2] Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd CIVIL APPEAL NO. 9405 of 2017

moratorium and there was never any genuine cause of action against the Respondent.

In view of the above facts, the admitted delay, the settled law on limitation, the existence of pre-existing disputes, and the correctness of findings of the Ld. NCLT, it is most respectfully submitted that the present Appeal is liable to be dismissed with exemplary costs.

Appraisal

24. Heard Counsels of both sides and also perused the material placed on record.

25. Learned Counsel for the Appellant submits that the appeal is within limitation because the order dated 06.11.2024 attained finality only upon the issue of rectified order dated 12.02.2025, which was received on 22.02.2025. It is urged that the two orders merge, and limitation must run from the later date. On merits, it is submitted by the Appellant that the Adjudicating Authority failed to appreciate the balance confirmation letters and the Respondent's admitted receipt of the same, which extended limitation under Section 18 of the Limitation Act. It is further submitted that the Respondent never denied receipt of goods, never made payment, and unilaterally adjusted the dues against other creditor accounts — so that no genuine dispute, but only a superficial one, was ever raised. The Appellant also attributes an entry in its letter dated 25.11.2019, referring to a credit balance of ₹1,61,37,994, to inadvertent and bona fide error, and submits that the Respondent cannot take advantage of the same.

26. Learned Counsel for the Respondent submits that the appeal itself is barred by limitation. Under Section 61(2) of the Code, an appeal must be filed within 30 days, extendable by a further 15 days on sufficient cause, and no further. The delay of 125 days is admitted and is not condonable in law. It is submitted that the rectification of 12.02.2025 corrected only a clerical error in the date of pronouncement and did not modify the order in any substantive respect; limitation for the appeal therefore runs from 06.11.2024, and not from the date of rectification. On merits, Respondent contends that the date of default, admitted by the Appellant to be 07.03.2015, rendered the Section 9 petition — filed on 23.09.2021 — hopelessly time-barred under Article 137 of the Limitation Act, 1963, which prescribes a three-year period from the date the right to apply accrues. It is further contended by the Respondent that the balance confirmation letters relied upon by the Appellant were undated, unproved and mutually inconsistent as to the amount claimed, and could not amount to a valid, unequivocal acknowledgment of liability under Section 18 of the Limitation Act. In any event, the correspondence exchanged between 2017 and 2018 — well before the demand notice of 10.03.2021 — discloses a real, pre-existing dispute regarding the very figures on which the Appellant's claim rests, sufficient to defeat the Section 9 petition under the settled test in [2]**Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd**.

27. On a conspectus of the record and rival submissions, the following issues arise for consideration:

(i) Whether the present appeal is barred by limitation under Section 61(2) of the Code;

(ii) Whether limitation for filing the appeal is to be reckoned from the rectified order dated 12.02.2025;

(iii) Whether the Section 9 petition before the AA was itself barred by limitation under Article 137 of the Limitation Act, 1963;

(iv) Whether the balance confirmation letters constitute a valid acknowledgment under Section 18 of the Limitation Act so as to extend limitation; and

(v) Whether a pre-existing dispute existed between the parties, disentitling the Appellant to relief under Section 9 of the Code.

Delay in filing the Appeal (Issues (i) and (ii)):

28. Section 61(2) of the Code prescribes a period of 30 days for filing an appeal, extendable by a further period not exceeding 15 days, and only on sufficient cause. We observe that the outer limit of 45 days is not merely directory. The Hon'ble Supreme Court, in [3]**V. Nagarajan v. SKS Ispat and Power Limited & Ors. (Civil Appeal No. 3327 of 2020),** has held that the limitation for filing an appeal under Section 61 commences from the date the order is pronounced, and that this Tribunal has no power to condone delay beyond the statutory outer limit. The relevant extract is as follows:

> "21. 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 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

[3] V. Nagarajan v. SKS Ispat and Power Limited & Ors. (Civil Appeal No. 3327 of 2020)

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."

29. Another related issue which is claimed by the appellant that limitation runs from the rectified order dated 12.02.2025 cannot be accepted for the reasons noted here in after. We observe that the rectification corrected only a clerical error concerning the date of pronouncement of the order. It did not modify or alter any of its findings. This distinction is decisive. In [4]**Yerramaneni Ramakrishna and Others Vs Suraksha Realty Ltd. and Others (2024) SCC Online NCLAT 1036** , this Tribunal, at paragraph 11, drew a clear line between an order that is modified in substance — where

[4] Yerramaneni Ramakrishna and Others Vs Suraksha Realty Ltd. and Others (2024) SCC Online NCLAT 1036

limitation runs afresh from the modified order — and an order where only a typographical error is corrected, where limitation continues to run from the date of original pronouncement. The relevant para is extracted as below:

> "11. The judgment of this Tribunal in Ashok Tiwari has no application in the facts of the present case. Since present is not a case of modification of the order. The Application filed by the Appellant in the above case for rectification of the order was partly allowed and order was modified and earlier order dated 17.01.2023 was modified, hence, this Tribunal held that earlier order stood merged with the subsequent order dated 21.03.2023. Present is not a case of any modification of the judgment dated 13.05.2024. The order delivered on 13.05.2024 in no manner was modified or changed. What was corrected was only a typographical error in the date of pronouncement which was wrongly mentioned as 13.06.2024 in place of 13.05.2024. The Hon'ble Supreme Court in "V. Nagarajan" (supra) has categorically held that period of limitation in filing the Appeal commences from the date when order was pronounced. In "V. Nagarajan" (supra), the order was passed on 31.12.2019 by the NCLT and the Hon'ble Supreme Court held that 30 days period expired on 30.01.2020. The proposition laid down by the Hon'ble Supreme Court in "V. Nagarajan" (supra) is fully attracted in the present case. When the order was pronounced on 13.05.2024, 30 days period expired on 12.06.2024 and Appeal was filed on 28.06.2024 i.e. 16th day after expiry of limitation. Our jurisdiction to condone the delay is limited to 15 days only as per Section 61(2) proviso. We, thus, are unable to condone the delay of 16 days' in filing these two Appeals. The Delay Condonation Applications are dismissed. Consequently, the memo of Appeals is rejected."

30. [5]**Ashok Tiwari Tattva & Mittal Lifespaces Private Limited (2023 SCC Online NCLAT 2179)** on which the Appellant places reliance, belongs to the former category and is accordingly distinguishable has also been cited herein above. We observe that **Ashok Tiwari Supra** was a case of modification of the original order and not a case of rectification of errors in the impugned judgment which are of cosmetic in nature.

31. The same principle was applied in [6]**Company Appeal (AT) (Insolvency) No.1470 of 2024 titled "Industrial Forgings Industrial Pvt. Ltd. Vs A2Z Infra Engineering Ltd."** where, at paragraph 7, this Appellate Tribunal held that correction of a mistakenly recorded date of judgment does not shift the starting point of limitation, which continues to run from the date the order was actually delivered. Relevant para 7 is extracted as below:

> "7. However, on the first page of the order by inadvertent mistake the date of judgment has been mentioned as 08.12.2022, which being an inadvertent error has subsequently corrected. The correction is only correction of date and not any correction of judgment or any modification of the judgment. In event, the judgment was modified on subsequent date, the submission of the Appellant could have been considered that fresh limitation period shall commence from the date when the order was modified. There is no case that there was modification of order rather there is correction of the date of the order. Further, there is no dispute between the parties that judgment was delivered on 08.12.2023, which is an admitted fact. We, thus, are of the view that limitation for filing the appeal shall commence from 08.12.2023 and the appeal which was filed

[5] Ashok Tiwari Tattva & Mittal Lifespaces Private Limited (2023 SCC Online NCLAT 2179)
[6] Company Appeal (AT) (Insolvency) No.1470 of 2024 titled "Industrial Forgings Industrial Pvt. Ltd. Vs A2Z Infra Engineering Ltd."

by the Appellant was beyond condonable period i.e. beyond 45 days. We, thus, do not find any ground to condone the delay. The application for condonation of delay deserves to be rejected and is hereby rejected. Consequently, the Memo of Appeal is also rejected."

32. Appellant has argued that section 60(6) of the IBC is applicable to the present case. Section 60(6) is reproduced as below:

"Section 6: Adjudicating Authority for corporate persons.

….

(6) Notwithstanding anything contained in the Limitation Act, 1963 (36 of 1963) or in any other law for the time being in force, in computing the period of limitation specified for any suit or application by or against a corporate debtor for which an order of moratorium has been made under this Part, the period during which such moratorium is in place shall be excluded."

33. We observe that reliance placed by the Appellant on Section 60(6) of the Code is misconceived. This provision excludes, for computing limitation, the period during which a moratorium operates — but only in respect of a "suit or application" by or against a corporate debtor. This Appellate Tribunal in Para No. 9 in [7]**Comp. App. (AT) (Ins.) No. 234 of 2023 titled "Reliance Naval and Engineering Ltd Vs Citi Securities & Financial Services Pvt Ltd and Anr."** held that section 60(6) is only applicable to suits or application and not for appeals preferred under section 61 of the code. Relevant para is extracted as below:

"9. Section 60 sub-Section 6 of the Code has been enacted in the Code for a purpose and object. The benefit of limitation has been extended for any

[7] Comp. App. (AT) (Ins.) No. 234 of 2023 titled "Reliance Naval and Engineering Ltd Vs Citi Securities & Financial Services Pvt Ltd and Anr."

suit or application by or against a Corporate Debtor for which an order of moratorium has been made to enable the Corporate Debtor to prosecute any proceeding or any proceeding to be prosecuted against the Corporate Debtor giving the benefit of the period of moratorium for a specific purpose and object. The Object is to protect the Corporate Debtor who is unable to institute proceedings during the moratorium period and object is also to protect those who want to initiate action against the Corporate Debtor who are unable to initiate action due to moratorium. The present is a case of limitation for filing an appeal under Section 61 of the Code which is 30 days from order of the Adjudicating Authority. The order passed by the Adjudicating Authority dated 31.08.2021 could have been appealed within 30 days and the benefit of Section 60(6) of the Code which is sought to be claimed in the present case is not applicable nor the Appellant can claim that in the period of limitation for filing the appeal, this period should be added."

34. Thus, we note that Section 60(6) has no application to an appeal filed under Section 61 of the Code.

35. We further note that the delays cannot also be excused on the ground of administrative lapses — whether attributable to the Resolution Professional in informing the Committee of Creditors, or to the Committee of Creditors in taking a belated decision to appeal. This Tribunal has consistently held that administrative reasons do not constitute sufficient cause to extend limitation beyond the statutory outer limit. In [8]**Company Appeal (AT) (CH) (Ins.) No. 306/2023 titled "The Regional Provident Fund Commissioner -II Kaloor**

[8] Company Appeal (AT) (CH) (Ins.) No. 306/2023 titled "The Regional Provident Fund Commissioner -II Kaloor Kochi Vs C.S. Ramachandran Thekkumkat Madathil and Another"

Kochi Vs C.S. Ramachandran Thekkumkat Madathil and Another" this Appellate Tribunal has held that administrative reasons cannot be a ground to seek extension of limitation under section 61(6) of the code. Relevant para is extracted as below:

> "There is no power enjoined upon the 'Appellate Tribunal', (under Section 61 of the I & B Code, 2016), to Condone the delay of 152 days, in preferring an 'Appeal', by the 'Petitioner' / 'Appellant'. Even though, the Petitioner / Appellant, has come out with the Administrative Reasons, for the delay of 152 days, this 'Tribunal' in an unequivocal manner points out that, beyond '30 + 15 = 45 days', this Tribunal, is not empowered to Condone the delay. Viewed in that prospective, the I.A. No. 939/2023 (Condone Delay Application) sans merits and accordingly fails. IA No.939 / 2023 in Comp App (AT) (CH) (Ins) No.306 / 2023 is 'dismissed', but without costs."

36. Thus, reckoned from the date of pronouncement, i.e., 06.11.2024, the outer limit of 45 days for filing the appeal expired well before the appeal came to be filed. The Appellant's own application admits a delay of 125 days. This delay is far in excess of the 15-day period we are empowered to condone. The appeal is, therefore, not maintainable and is liable to be dismissed on this ground alone.

Limitation for the Section 9 Petition (Issue (iii)):

37. Article 137 of the Schedule to the Limitation Act, 1963 prescribes a period of three years from the date the right to apply accrues, and governs applications filed under the Code, including those under Section 9.

38. We note that the Hon'ble Supreme Court, in [1]**B.K. Educational Services Pvt. Ltd. (supra)**, held at paragraph 42 that the right to apply accrues on the date of default, that limitation for an IBC application runs from

that date, and that the Code cannot be used as a mechanism to revive time-barred debts. The relevant para is extracted below for easy reference:

> "42. It is thus clear that since the Limitation Act is applicable to applications filed under Sections 7 and 9 of the Code from the inception of the Code, Article 137 of the Limitation Act gets attracted. "The right to sue", therefore, accrues when a default occurs. If the default has occurred over three years prior to the date of filing of the application, the application would be barred under Article 137 of the Limitation Act, save and except in those cases where, in the facts of the case, Section 5 of the Limitation Act may be applied to condone the delay in filing such application."

39. We observe that the Appellant's own pleadings record the date of default as 07.03.2015. Applying Article 137, limitation expired on 07.03.2018, without a valid extension. The Section 9 petition, filed on 23.09.2021, was therefore prima facie beyond limitation by a wide margin, and could be saved only by a valid acknowledgment under Section 18 of the Limitation Act.

Whether the balance confirmations extend limitation (Issue (iv)):

40. An acknowledgment, to have the effect contemplated under Section 18 of the Limitation Act, must be an unequivocal admission of a subsisting liability, made in writing, before the expiry of the then-current period of limitation, and duly proved. The Adjudicating Authority found the balance confirmations relied upon by the Appellant to be undated and unproved. The Appellant has not placed any material before this Tribunal to displace that finding of fact.

41. We further note that the three balance confirmations relied upon by the Appellant record three materially different figures — ₹4,73,31,706, ₹3,05,58,222 and ₹2,44,46,578. A document that records a shifting and

unexplained figure each time does not read as an unequivocal admission of a fixed, ascertained debt. It is, at best, the evidence of an unsettled reconciliation between the parties, which is a different thing altogether from an acknowledgment of liability.

42. This is also reinforced by the Appellant's own letter dated 25.11.2019, which recorded a credit balance of ₹1,61,37,994 — a figure the Appellant now seeks to explain away as inadvertent. An Operational Creditor cannot base a Section 9 petition on documents that are internally inconsistent as to the very debt claimed, and then ask this Tribunal to treat the same documents as an unequivocal acknowledgment extending limitation. For these reasons, the balance confirmations do not satisfy the requirements of Section 18 of the Limitation Act, and do not extend limitation for the Section 9 petition.

<u>Pre-existing dispute Issue (v):</u>

43. The Hon'ble Supreme Court, in [2]**Mobilox Innovations Pvt. Ltd. v. Kirusa Software Pvt. Ltd. (Supra)** held that if a dispute exists — provided it is not spurious, hypothetical or illusory — the Adjudicating Authority must reject a Section 9 application. The enquiry at that stage is confined to whether a plausible dispute exists, and does not extend to a determination of the dispute on merits. The record in the present case shows a courier dated 19.01.2017 and a series of emails through 2018, all predating the demand notice of 10.03.2021 by several years, in which the Respondent raised specific and recurring objections to the figures claimed by the Appellant, referred to set-offs, and disputed the correctness of the ledger accounts. These are not disputes created after the demand notice to defeat an admitted claim. They

precede the notice by years, and concern the very figures forming the basis of the claim — a coincidence borne out by the shifting amounts across the Appellant's own balance confirmations discussed above.

44. The Appellant's contention that the Respondent never denied receipt of goods, and that any dispute raised was merely superficial, does not withstand scrutiny once the correspondence is read as a whole. What emerges is a genuine and continuing dispute over reconciliation of accounts, not an admitted and crystallized debt. The Adjudicating Authority was correct in holding that a pre-existing dispute existed, and that the Section 9 petition was not maintainable on this ground as well.

45. This Tribunal does not consider it necessary to render any finding on the Respondent's further submission attributing an ulterior motive to the filing of the petition. The petition fails independently on the grounds of limitation and pre-existing dispute, and nothing turns on the question of motive.

Conclusion

46. For the reasons recorded above, this Tribunal finds that the appeal itself is barred by limitation under Section 61(2) of the Code, the delay of 125 days being far beyond the outer limit this Tribunal is empowered to condone, and the rectified order dated 12.02.2025 — being a mere correction of a clerical error — does not shift the starting point of limitation.

47. Even on merits, before the Adjudicating Authority, the Section 9 petition was filed well beyond the three-year period prescribed under Article

137 of the Limitation Act, 1963, and also cannot be saved by any valid acknowledgment under Section 18 of the Limitation Act, and also was, in any case, liable to rejection on account of a genuine pre-existing dispute between the parties.

48. Thus, the impugned order dated 06.11.2024, as rectified on 12.02.2025, calls for no interference.

Orders

49. Bases above noted analysis the Company Appeal (AT) (Insolvency) No. 607 of 2025 is dismissed as barred by limitation, and, in any event, on merits. The order dated 06.11.2024, as rectified vide order dated 12.02.2025, passed by the National Company Law Tribunal, Jaipur Bench, in C.P. (IB) No.79/9/JPR/2021, is upheld. Pending Interlocutory Applications, if any, stand disposed of. There shall be no order as to costs.

[Justice N. Seshasayee]
Member (Judicial)

[Arun Baroka]
Member (Technical)

New Delhi.
July 29, 2026.

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