



**THE NATIONAL COMPANY LAW TRIBUNAL
CHANDIGARH BENCH AT CHANDIGARH
COURT-I**

**IA No. 1601/2023, 1602/2023
In
CP (IB) No. 153/Chd/Pb/2019**

**Under Section 42 of Insolvency
and Bankruptcy Code, 2016
read with Rule 11 of National
Company Law Tribunal Rules,
2016**

IN THE MATTER OF:

Parmod Sharma

...Operational Creditor

Versus

Emsons Organics Ltd.

...Corporate Debtor

IN THE MATTER OF IA No 1601/2023 and 1602/2023:

Assistant Commissioner,
Central Goods and Services Tax Division-Samba
CGST Jammu Commissionerate
W.No.5, Opp. District Hospital, Mandi Kotli, Samba, J&K 184121

...Applicant

M/s Emsons Organics Ltd.

(Proprietor of M/s Universal Agro Links)
Represented by its Liquidator, Sh. Prem Chand Goyal,
Resolution Professional, IP Registration No.
IBBI/IPA-001/IP-P01780/2019-2020/12710,
House No. 1-F, Adjoining Municipal house,
Model Town, Patiala, Punjab-147001.

...Respondent

Order delivered on: 08.07.2025

**Coram: Hon'ble Mr. Harnam Singh Thakur, Member (Judicial)
Hon'ble Mr. Shishir Agarwal, Member(Technical)**

Present: -

For the applicant : Mr. Sunish Bindlish, Advocate
For the Liquidator : Mr. Pulkit Goyal, Advocate



Per: Harnam Singh Thakur, Member (Judicial)

Shishir Agarwal, Member (Technical)

ORDER

The present two applications, IA No. 1601/2023 and IA No. 1602/2023, have been filed by the Assistant Commissioner of Central Goods and Service Tax, Division-Samba (hereinafter referred to as 'the Applicant') are interrelated and taken up together for the sake of convenience.

2. **IA No. 1601/2023** is filed under Section 5 of the Limitation Act, 1963, read with Rule 11 of the National Company Law Tribunal Rules, 2016, seeking condonation of a delay of 120 days in filing the accompanying appeal under Section 42 of the Insolvency & Bankruptcy Code, 2016 (hereinafter referred to as 'the Code'). This appeal challenges the rejection of the Applicant's claim by the Liquidator vide letter dated 07.02.2023.

3. **IA No. 1602/2023** is filed under Section 42 of the Code, read with Rule 11 of the National Company Law Tribunal Rules, 2016. This application seeks to set aside the Liquidator's rejection of the Applicant's claim dated 07.02.2023 and a direction to the Liquidator to consider the claim filed by the Applicant Department on 02.02.2023.

4. **Brief Facts & Applicant's Contentions (Common to both IAs):**

4.1. The Applicant submits that the delay of 120 days in filing the appeal (IA No. 1601/2023) was neither intentional nor deliberate but occurred due to administrative reasons inherent in a Government Department, necessitating adherence to proper channels and procedures.

4.2. The Applicant contends that the Liquidator of M/s Emsons Organics Limited (Respondent/Corporate Debtor) failed to inform the Department about the



ongoing Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor. It was only in response to a personal hearing notice sent by the Applicant-Department that the Liquidator intimated, vide letter dated 20.12.2022, that the Corporate Debtor was undergoing liquidation proceedings.

- 4.3. Following this intimation, the Applicant Department, vide letter dated 02.02.2023, requested the Liquidator to adjust pending demands against the Corporate Debtor. The said claim was subsequently rejected by the Liquidator vide letter dated 07.02.2023.
- 4.4. The Applicant states that upon examining the rejection on 09.02.2023, a decision was made to seek legal advice for challenging the rejection letter. The process of taking legal advice, engaging counsel, drafting, filing, and pursuing the matter consumed time, leading to the appeal (IA No. 1602/2023) being filed on 07.07.2023, which is 120 days beyond the statutory period of 14 days prescribed under Section 42 of the Code.
- 4.5. The Applicant highlights that M/s Universal Agro Links, a partnership concern, previously had outstanding Central Excise Duty demands against it, including an Order-in-Original dated 24.06.2016 for INR 1009.35 lakhs (Duty & Penalty) and a Show Cause Notice dated 23.06.2010 for INR 380.57 lakhs (Duty). This concern was later taken over by M/s Emsons Organics Limited, the Corporate Debtor.
- 4.6. The CIRP against the Corporate Debtor commenced on 27.09.2019, and a Liquidator was appointed. The Applicant avers that despite Section 17(2) of the Code vesting the Interim Resolution Professional (IRP) with the management and access to books of accounts, the IRP/Liquidator failed to



take cognizance of the government dues, which ought to have been reflected in the Corporate Debtor's books.

4.7. Reliance is placed on the ***Hon'ble NCLT, New Delhi judgment in State Bank of India v. ARGL Ltd. CP No. (IB) 531(Pb)/2017***, decided on 16.03.2018], where it was held that government dues are always reflected in the books of accounts and the RP/IRP is required to take cognizance of such dues.

4.8. Further reliance is placed on:

- ***Sh. Virender Singh v. M/s. Theme Export Pvt. Ltd. through Liquidator Mr. Vikram Bajaj [Company Appeal (AT) (Ins) No. 34 of 2022]***, where the NCLAT condoned a delay of 64 days in filing a claim before the Liquidator, considering it a 'sufficient cause'.
- ***UCO Bank v. Nicco Corporation Limited (In Liquidation) [CA (IB) No. 31/KB/2018 in CP (IB) No. 03/KB/2017 (NCLT, Kolkata Bench)]***, where an 11-day delay in submitting a financial creditor's claim was condoned.
- ***M/s Globe Express Services (Overseas Group) Ltd. & Anr. v. M/s M.M. Cargo Container Line Pvt. Ltd. and Others [(IB) 204(ND)/2017 (NCLT, Delhi)]***, which held that the Code mandates the Resolution Professional to collect all claims, and non-inclusion should not be summarily rejected by the liquidator.

5. Respondent's Contentions:

5.1. The Liquidator, in reply, submits that the liquidation commenced on 15.12.2020. As per Regulation 12 of the IBBI (Liquidation Process)



Regulations, 2016, claims had to be submitted or updated within 30 days, i.e., by 14.01.2021.

- 5.2. The Applicant Department first communicated in December 2022, sending an undated letter for a personal hearing regarding a Show Cause Notice from 23.06.2010 (M/s Universal Agro Links). The Liquidator responded on 20.12.2022, informing that the liquidation process had already been initiated and assets sold. An application for dissolution (IA No. 199 of 2022) was also filed on 14.12.2021.
- 5.3. The Liquidator received the Applicant's claim letter dated 02.02.2023, which was submitted with a delay of more than two years (748 days) from the last date for claims. The Liquidator, lacking the power to condone such a delay, rejected the claim on 07.02.2023.
- 5.4. The Liquidator further submits that the appeal under Section 42, filed on 07.07.2023, itself is time-barred by 136 days from the last date of challenge (21.03.2023). Reliance is placed on the ***Hon'ble NCLAT in V.K. Abdul Rahim v. Jasin Jose, RP/Liquidator [Company Appeal (AT) (CH) (INS) No. 299 of 2023, decided on 26.09.2023]***, which held that the IBC is a time-bound process and the Liquidator cannot accept a belated claim.
- 5.5. Further, the Liquidator relies on the ***Hon'ble NCLT, Hyderabad Bench's order in IFCI Ltd. v. BS Ltd. through its liquidator IA NOs. 1082/HBD/2022 and 1083/HBD/2023 in CP (IB) No. 278/7/HBD/2018*** [dated 28.08.2023] , which, relying on the ***Hon'ble Supreme Court's judgment in National Spot Exchange Ltd. v. Mr. Anil Kohli, RP of Dunar Foods Ltd. Civil Appeal No. 6187 of***



2019, asserts that when there is a clear statutory bar, the Tribunal cannot exercise inherent power to condone delay beyond the prescribed period.

5.6. The Liquidator asserts that the liquidation process is complete, assets have been sold, and proceeds distributed under Section 53 of the Code, with no amount left for distribution. Allowing such belated applications would set a wrong precedent and defeat the Code's time-bound objective. This position has been supported by the ***Hon'ble NCLT, Delhi in IA Nos. 5382/2021 Employees Provident Fund Organization V/s Mohit Chawla-Liquidator in main matter IB-404(ND)/2018 Premsons Super Steels Pvt. Ltd. V/s. M/s. Bank of India*** (decided on 29.05.2024) .

5.7. Lastly, the Liquidator states that the Resolution Professional undertook CIRP steps based on available records, and despite an order under Section 19(2) of the Code (dated 07.10.2022) directing the suspended directors to provide information, complete books of accounts were not accessible to ascertain government dues.

Analysis and Findings:

6. We have carefully perused the records available and heard the arguments advanced by learned counsels for both parties.

7. The Corporate Insolvency Resolution Process (CIRP) commenced on 27.09.2019, and the liquidation order was passed on 15.12.2020. As per Regulation 12(2)(b) of the Insolvency and Bankruptcy Board of India (Liquidation Process) Regulations, 2016, the last date for submission of claims was thirty days from the liquidation commencement date, which in this case was 14.01.2021.



8. It is undisputed that the Applicant Department filed its claim on 02.02.2023, which represents a substantial delay of **more than two years** from the prescribed last date for submission of claims.

9. Furthermore, Section 42 of the Code mandates that an appeal against the Liquidator's decision must be filed within fourteen days of the receipt of such decision. The Liquidator's rejection letter is dated 07.02.2023. The appeal (IA No. 1602/2023) was filed on 07.07.2023, resulting in a delay of **120 days** beyond the statutory 14-day period for filing the appeal.

10. The Applicant's explanation for this extensive delay primarily cites "administrative reasons" and the need to "follow proper channels and processes/procedures" within a Government Department, along with seeking legal advice and engaging counsel. While such reasons are often cited, it is imperative to examine whether they constitute "sufficient cause" within the strict timelines of the Code.

11. The argument that the Liquidator failed to inform the Applicant about the CIRP proceedings is contradicted by the fact that the Applicant Department received intimation from the Liquidator on 20.12.2022, and subsequently filed a claim on 02.02.2023. The delay of over two years in submitting the claim, starting from the liquidation commencement date, is inexplicable and falls far outside any reasonable window.

12. Regarding the contention that government dues should have been reflected in the books of accounts and taken cognizance of by the RP/Liquidator, a crucial aspect of the Applicant's argument, we note the reliance on ***State Bank of India v. ARGL Ltd. (supra)***. However, the facts of the present case reveal that the Resolution Professional faced challenges in accessing complete information/books



of accounts of the Corporate Debtor, as evidenced by this Adjudicating Authority's order dated 07.10.2022, directing suspended directors to provide necessary information and cooperation. In the absence of the Corporate Debtor's Balance Sheets or Income Tax Returns on record, it is not possible for this Tribunal to ascertain the reflection of the Applicant Department's claim in the Corporate Debtor's books, distinguishing it from the ARGL Ltd. case.

13. The Applicant's reliance on ***Sh. Virender Singh v. M/s. Theme Export Pvt. Ltd. (supra)*** is distinguishable. In that case, the delay was merely 64 days, and the claim pertained to the "pandemic period," attracting the benefit of the Hon'ble Supreme Court's *Suo Motu* Writ Petition dated 08.03.2021, which extended limitation periods during the pandemic. In the present matter, the delay is of **more than two years**, and the claim does not pertain to or fall within the pandemic period. Therefore, the principles of *Suo Motu* Writ Petition are not applicable.

14. Similarly, the reliance on ***UCO Bank v. Nicco Corporation Limited (supra)*** is also not applicable. In that case, the delay was only 11 days, which falls within a realm where condonation might be considered for a 'sufficient cause'. However, a delay of **more than two years** cannot be equated with an 11-day delay, and no *sufficient cause* for such an inordinate delay has been demonstrated by the Applicant.

15. It is a well-established principle that the proceedings under Insolvency and Bankruptcy Code, 2016 are time bound. Therefore, provisions under the Code are designed for expeditious resolution. The ***Hon'ble Supreme Court in Essar Steel India Ltd. Committee of Creditors v. Satish Kumar Gupta & Ors. [(2020) 8 SCC 531]*** has repeatedly emphasized the importance of adhering to the strict timelines prescribed under the Code, recognizing that "time is of the essence" for



the successful functioning of the insolvency framework. Condoning such inordinate delays would undermine the very objective of the Code.

16. Furthermore, the Liquidator has clearly stated that the liquidation process in the present matter has already been completed, the assets of the Corporate Debtor have been sold, and the entire sale proceeds have been distributed among the stakeholders as per Section 53 of the Code. The ***Hon'ble Supreme Court, in Ghanshyam Mishra and Sons Private Limited v. Edelweiss Asset Reconstruction Company Limited [(2021) 9 SCC 657]***, has affirmed the finality of resolution plans and liquidation proceedings, emphasizing that once the process is complete and funds are distributed, claims cannot be re-opened. Allowing a claim at this belated stage, after the distribution of assets, would be impractical and contrary to the finality envisioned by the Code.

17. There is no provision in the Code to extend the timeline for filing the claim before the Liquidator beyond the prescribed statutory period, nor for filing the appeal under Section 42 with such a significant delay. ***The Hon'ble NCLAT in V.K. Abdul Rahim v. Jasin Jose, RP/Liquidator (supra)*** has also highlighted that a Liquidator cannot accept a belated claim if it goes against the provisions of the Code. Similarly, as held in ***IFCI Ltd. v. BS Ltd. through its liquidator (supra)***, when there is a clear statutory bar, the Tribunal cannot exercise inherent power to condone delay.

18. The Applicant has failed to provide any "sufficient cause" or reasonable justification for the inordinate delay of over two years in filing the claim before the Liquidator, and subsequently for the 120-day delay in filing the appeal under Section 42 of the Code. The delay is not merely procedural but reflects a lack of



diligence. Thus, the said delay is not only quite inordinate but also fatal to the time bound CIRP process. Thus, cannot be condoned.

ORDER

19. In view of the foregoing detailed analysis and findings, particularly the culpable and unexplained delay in both filing the claim and the appeal, and considering that the liquidation process has been concluded with the distribution of assets, this Tribunal finds no merit in the applications for condonation of delay or setting aside the Liquidator's decision. Condoning such delays would defeat the time-bound objectives and the finality of the process enshrined in the Insolvency and Bankruptcy Code, 2016.

20. Accordingly, both **IA No. 1601/2023** and **IA No. 1602/2023** are hereby **dismissed** without any order as to costs and stand **disposed of**.

Sd/-

(Shishir Agarwal)
Member (Technical)

July 08, 2025

Tamanna

Sd/-

(Harnam Singh Thakur)
Member (Judicial)