



SL. No.3

**NATIONAL COMPANY LAW TRIBUNAL
HYDERABAD BENCH**

COURT HALL NO: II

Hearing Through: VC and Physical (Hybrid) Mode

**CORAM: SHRI. RAJEEV BHARDWAJ – HON'BLE MEMBER (J)
CORAM: SHRI. SANJAY PURI - HON'BLE MEMBER (T)**

**ATTENDANCE-CUM-ORDER SHEET OF THE HEARING OF NATIONAL COMPANY LAW TRIBUNAL,
HYDERABAD BENCH, HELD ON 08.08.2025 at 10:30 AM**

TRANSFER PETITION NO.	
COMPANY PETITION/APPLICATION NO.	IA (IBC)/1982/2024 in CP (IB) No.504/10/HDB/2018
NAME OF THE COMPANY	Handum Industries Ltd
NAME OF THE PETITIONER(S)	
NAME OF THE RESPONDENT(S)	
UNDER SECTION	10 of IBC

ORDER

IA (IBC)/1982/2024

Orders pronounced, recorded vide separate sheets. In the result, this application is dismissed.

Sd/-
MEMBER (T)

Sd/-
MEMBER (J)



IN THE NATIONAL COMPANY LAW TRIBUNAL

HYDERABAD BENCH, COURT-II

I.A (IBC) No. 1982 of 2024

IN

C.P (IB) No.504/10/HDB/2018

[Under Section 42 of Insolvency and Bankruptcy Code, 2016, r/w Rule 11 of National Company Law Tribunal Rules, 2016]

IN THE MATTER OF M/s. HANDUM INDUSTRIES LTD.

BETWEEN:

**Principal Commissioner of Customs,
O/o. The Principal Commissioner of Customs,
Custom House, Port Area,
Visakhapatnam-530001.**

....Applicant

Versus

**Mr. Sri Vamsi Kambhammettu, CA,
The Liquidator of M/s. Handum Industries Ltd.,
Unit A3, 1st Floor, Vaishnavi@36,
Plot No. 645, Road No. 36,
Jubilee Hills, Hyderabad-500033.**

....Respondent/Liquidator

Date of Order: 08.08.2025

Coram:

Hon'ble Shri Rajeev Bhardwaj, Member (Judicial)
Hon'ble Shri Sanjay Puri, Member (Technical)

Counsels Present

For Applicant : Ms. Santhi Chandra, Advocate
For Respondent : Mr. K. Poorna Chandra Rao, Advocate &
Mr. Sri Vamsi Kambhammettu, Liquidator



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HYDERABAD BENCH-II

I.A (IBC) No. 1982 of 2024
IN
C.P (IB) No. 504/10/HDB/2018
Date of Order: 08.08.2025

[PER: Bench]
ORDER

1. This Application is filed by Principal Commissioner of Customs (Applicant/Operational Creditor), Visakhapatnam seeking the following reliefs:

- (i) To allow the present application by condoning the delay of 912 days in submitting the claim of the Operational Creditor before the Respondent-Liquidator of the Corporate Debtor in respect of the matter, by setting aside the impugned rejection letter dt. 06.09.2024 issued by the respondent with all consequential relief;
- (ii) To direct the Respondent-Liquidator to accept the claim, to take it on record and to include the entire claim of the applicant amounting to Rs.4,26,49,154/-as detailed in the claim submitted with the Respondent-Liquidator in the total debt of the Corporate Debtor, and to allot the applicable share and to pay the same with all consequential relief.

2. Application

- (i) M/s. Handum Industries Limited (**Corporate Debtor** or **CD** or **Assessee**) is engaged in the manufacture of rerolled iron and steel products falling under Chapter 72 of the Central Excise Tariff Act, 1985. The CD utilizes non-alloy steel inputs such as blooms, billets, slabs, and ingots as raw materials for the production of its final goods.
- (ii) The Directorate of Revenue Intelligence (**DRI**), Regional Unit, Hyderabad, discovered that the CD had imported non-alloy steel blooms and billets without payment of applicable customs duties by availing the benefit of Customs Notification No. 53/1997 dated 03.06.1997 under the 100% Export Oriented Unit (**EOU**) Scheme. These goods were allegedly diverted to the Domestic Tariff Area (**DTA**), thereby contravening the provisions of the said exemption notification and the EXIM Policy.
- (iii) Consequently, the Applicant issued a show cause notice dated 12.11.2003 (F. No. VIII/26/03(Vizag)/03-HRU) to the CD and nine other co-noticees through DRI, Chennai.



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- (iv) Subsequently, vide Notification No. 43/2006-Cus (NT) dated 31.03.2006, the Commissioner of Central Excise, Bangalore was designated as the Adjudicating Authority for the said show cause notice. The Adjudicating Authority passed Order-in-Original No. 01/2010-Cus dated 29.01.2010 confirming the demand of customs duty of Rs. 87,82,626/- under Section 28(1) of the Customs Act, 1962 along with applicable interest under Section 28AB. The benefit under Notification No. 53/1997-Cus was denied. Further, a **penalty equal to the duty amount** was imposed under Section 114A on the Assessee, and penalties were also levied on the nine co-noticees under Sections 112(a)/(b) of the Act.
- (v) The demand pertained to 5,330 MT of non-alloy steel slabs and blooms imported through Visakhapatnam Customs at nil duty under the aforesaid Notification. Out of this, 1,634.315 MT, valued at Rs. 1,27,47,739/- and involving customs duty of Rs. 87,82,626/-, were clandestinely diverted by the CD into the DTA without payment of duty.
- (vi) As per CBIC Circular No. 61/2002 dated 20.09.2002, the Adjudicating Authority was obligated to impose a **penalty equivalent to the duty plus interest** under Section 114A. Accordingly, the Applicant filed an appeal before the Hon'ble CESTAT, Bangalore, in terms of Review Order No. 09/2010 passed by the Committee of Chief Commissioners under Section 129D(1) of the Act.
- (vii) The Hon'ble CESTAT, Bangalore, vide Final Order No. 20151/2024 dated 14.03.2024, abated the Departmental appeal against the Order-in-Original dated 29.01.2010 under Rule 22 of the CESTAT (Procedure) Rules, 1982. The abatement occurred due to the commencement of insolvency proceedings, which was not within the Applicant's knowledge at that time.
- (viii) The CD was admitted into Corporate Insolvency Resolution Process (CIRP) by this Authority vide order dated 04.03.2020 in CP (IB) No. 504/10/HDB/2018. Subsequently, liquidation was ordered vide order dated 11.06.2021 in I.A. No. 193/2021. The Applicant became aware of the CIRP and liquidation only after perusing the CESTAT's final order dated 14.03.2024.



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- (ix) Despite the binding Order-in-Original dated 29.01.2010, the CD failed to inform the Applicant about the CIRP and liquidation proceedings, presumably with an intent to evade payment of customs dues.
- (x) Moreover, neither the Interim Resolution Professional (IRP) nor the Liquidator intimated the Applicant about the pending insolvency proceedings, despite having access to the CD's books of account that reflected customs duty dues.
- (xi) Upon learning about the liquidation, the Applicant approached the Liquidator on 21.08.2024 to inquire about the status. Thereafter, on 29.08.2024, the Applicant submitted its claim in Form-C for an amount of Rs. 4,26,49,154/-, along with a request for condonation of delay. The delay was solely due to the Applicant's lack of knowledge regarding the CIRP and liquidation, which remains ongoing, and therefore condonation would not prejudice the CD or delay the process.
- (xii) The present application seeks condonation of a delay of 1,125 days in submitting the claim. The last date for filing the claim was 31.07.2021. Due to the COVID-19 pandemic and skeletal functioning of offices, it became impractical to address the issue promptly.
- (xiii) The Hon'ble Supreme Court in Suo Motu Writ Petition (Civil) No. 3 of 2020 directed the exclusion of the period from 15.03.2020 to 28.02.2022 in computing limitation periods. Accordingly, after excluding 213 days (from 31.07.2021 to 28.02.2022), the effective delay is 912 days.

3. Counter

- (i) The Application is not maintainable. The claim was filed 1,119 days post the Liquidation Commencement Date (**LCD**). Regulation 12(2)(b) of the IBBI (Liquidation Process) Regulations, 2016 requires claims to be submitted within 30 days of LCD.
- (ii) Under Section 42 of the IBC, 2016, the Applicant may appeal within 14 days against the Liquidator's decision. The claim was submitted



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on 29.08.2024, rejected on 06.09.2024, and the appeal was filed only on 24.09.2024 after the permissible period.

- (iii) Rule 11 of the NCLT Rules, 2016 does not empower this Tribunal to condone delays that exceed statutory limits prescribed under special enactments like IBC. Also, the law assists those who are vigilant, not those who sleep over their rights.
- (iv) Liquidation is a time-bound process. Regulation 44(2) mandates its completion within one year. If condonation is allowed, the finalisation of liquidation will be further delayed.
- (v) A public announcement by the Liquidator inviting claims was made on 01.07.2021. The Assistant Commissioner of Customs, Hyderabad, submitted a claim for a different transaction, and is a member of both CoC and SCC. Therefore, the Applicant's claim of lack of knowledge is incorrect and misleading.
- (vi) Section 238 of the IBC, 2016 provides overriding effect over other laws, including the Customs Act. The Respondent relied on *Sundaresh Bhatt v. CBIC* [2022 SCC OnLine SC 1101].

4. Rejoinder

- (i) The delay was purely due to lack of knowledge. The Liquidator never informed the Applicant, despite the ongoing proceedings before CESTAT.
- (ii) The delay in filing this application is only 4 days, not 18, and an Interlocutory Application (IA) for condonation has been filed. The case involved retrieval of 14-year-old records, which reasonably explains the 4-day delay in filing the application.
- (iii) In ***APFC, Dehradun v. Ashok Kumar Dewan (Liquidator of Alupan Composite Panel Pvt. Ltd.)***, the NCLT, Delhi, allowed condonation and set aside the Liquidator's rejection order. Hence, this Tribunal has the jurisdiction and discretion to condone delay.
- (iv) Admission of the Applicant's claim will not prejudice the process, as liquidation is still ongoing, and distributions will follow the waterfall mechanism.



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(v) The paper publication cited by the Respondent pertains to Telangana, whereas the Applicant operates in Andhra Pradesh under the Visakhapatnam Zone. Therefore, Respondent's argument is misleading.

5. Heard the Counsels for both the parties and perused the entire records.

6. **Findings**

(i) In the year 2003, the Applicant issued a Show Cause Notice dated 12.11.2003 vide F.No.: VIII/26/03(Vizag)/03-HRU to the CD, through the Directorate of Revenue Intelligence (DRI), Chennai.

(ii) The allegation in the said Show Cause Notice was that the Corporate Debtor (CD) was procuring Non-Alloy Steel Blooms, Billets, etc., without payment of customs duty by availing exemption under Notification No. 53/97-Cus dated 03.06.1997 under the 100% Export Oriented Unit (EOU) Scheme and was clandestinely diverting the said goods into the Domestic Tariff Area (DTA), thereby violating the terms of the aforesaid Notification and the provisions of the EXIM Policy.

(iii) In Adjudicating Authority, namely the Commissioner of Central Excise (Adjudication), Bangalore, vide Order-in-Original No. 01/2010-Cus dated 29.01.2010, confirmed the allegations and passed the following order:

"I) I deny the benefit of Notification No. 53/97 CUS dated 3.6.97 as amended, availed by M/s. HIL Hyderabad in respect of goods imported duty free and diverted to DTA as detailed in Worksheet B annexed to the Show Cause Notice.

ii) I confirm the demand of duty amounting to Rs. 87, 82,626/- (Rupees Eighty Seven Lakh Eighty Two Thousand Six Hundred and Twenty Six only) on M/s Handum Industries Ltd, being the duty foregone on the diverted goods in terms of proviso to sub-section (1) of section 28 of Customs Act, 1962, read with conditions (6) of Notification No. 53/97 CUS dated 3.6.97, as amended.



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iii). I order payment of interest on the duty demanded and confirmed above at the rates applicable in terms of section 28 AB of the Customs Act, 1962, read with condition (6) of Notification No. 53/97 Cus dated 3.6.97, as amended.

iv) I hold that the quantity of 1634.315 MTs of duty free imported goods diverted to DTA, valued at Rs.1,27,47,739/-(Rupees One Crore Twenty Seven Lakhs Forty Seven Thousand Seven Hundred and Thirty Nine only) are liable for confiscation under section 111 (0) of the Customs Act, 1962. However the goods are not available for confiscation, as they have already been diverted to various places.

v). I impose penalty of Rs. Rs. 87, 82,626/- (Rupees Eighty Seven Lakh Eighty Two Thousand Six Hundred and Twenty Six only) on M/s. HIL Hyderabad under section 114 A of Customs Act, 1962.

- (iv) It is the contention of the Applicant that as per CBIC Circular No. 61/2002 dated 20.09.2002, the Adjudicating Authority is required to impose a penalty under Section 114A of the Customs Act, 1962 **equivalent to the duty plus interest**, and **not merely equivalent to the duty amount**. Aggrieved by the order, the Applicant preferred an appeal before the Hon'ble CESTAT, Bangalore.
- (v) Meanwhile, the CD was admitted into Corporate Insolvency Resolution Process (CIRP) vide order dated 04.03.2020 in CP (IB) No. 504/10/HDB/2018. Subsequently, liquidation was ordered by this Adjudicating Authority vide order dated 11.06.2021 in I.A. No. 193 of 2021.
- (vi) In light of the liquidation proceedings, the CESTAT, Bangalore, vide Final Order No. 20151/2024 dated 14.03.2024, recorded the abatement of the appeal as follows:

“5.Since the issue is settled as per the order of the NCLT vide Final Order dated 11.06.2021, the appeal abates, as per Rule 22 of the CESTAT (procedure) Rules, 1982.”



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- (vii) The Applicant contended that it became aware of the CIRP and subsequent liquidation proceedings only upon perusal of the CESTAT order dated 14.03.2024.
- (viii) Upon becoming aware of the liquidation process, the Applicant submitted its claim in Form-C to the Liquidator on 29.08.2024, which was subsequently rejected via email dated 06.09.2024. Hence, the present application has been filed seeking condonation of a delay of 912 days in submitting the claim.
- (ix) Section 38 of the Insolvency and Bankruptcy Code, 2016 mandates that the Liquidator shall collect claims of creditors within 30 days from the liquidation commencement date. Sub-section (3) of Section 38 allows an operational creditor to submit a claim to the liquidator in the form and manner prescribed.
- (x) Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016 requires the Liquidator to make a public announcement in Form B within five days of appointment, specifying a 30-day period for submission or updating of claims. In accordance with Regulation 17, operational creditors are required to file their claims within the time specified.
- (xi) In the present case, public announcements were made on 01.07.2021 in the *Financial Express* (English) and *Mana Telangana* (Telugu), and the last date for submission of claims was specified as 31.07.2021. The Applicant failed to submit its claim by the said deadline, stating it was unaware of the CIRP and liquidation proceedings.
- (xii) The Hon'ble NCLAT in **V.K. Abdul Rahim v. Jasin Jose, RP/Liquidator**¹ held:

“20. This Tribunal, is of the considered view that IBC is a time bound process and the Liquidator cannot accept a belated Claim, which would go against with the provisions of the IBC, 2016 as well as the scope and objective of the ‘Code’.”

¹ (2023) ibclaw.in 632 NCLAT



- (xiii) In *The Assistant Commissioner of Commercial Taxes v. Right Engineers & Equipment India Pvt. Ltd.*², the NCLAT held that:

“16. It is an axiomatic principle in law that the ‘Tribunal’ is required to consider the ‘sufficiency of cause’, whether the cause ascribed is reasonable looking to all the facts of the matter. However, the aspect of an existence of ‘sufficient cause’ is to be determined based on the facts and circumstances hovering around particular case. Indeed, there ought not to be an ‘inaction’ or ‘want of bonafide’ or no negligence attributable to a litigant/party, as the case may be.”

- (xiv) The Order-in-Original was issued on 29.01.2010. The CD was admitted into the CIRP nearly ten years later, on 04.03.2020. It is undisputed that the amount confirmed by the Commissioner of Central Excise (Adjudication), Bangalore, remains uncontested. However, the Applicant has failed to demonstrate any effort or initiative undertaken during the intervening period to recover the dues from the Corporate Debtor.
- (xv) While the Applicant did file an appeal before the CESTAT, the precise date of filing remains unclear. Moreover, the appeal appears to challenge only the quantum of penalty under Section 114A of the Customs Act as the Commissioner of Central Excise (Adjudication), Bangalore has only imposed penalty equivalent to duty amount but not **duty + interest**.
- (xvi) It is noted that the Applicant did not dispute the principal demand which has been awarded by the Commissioner of Central Excise (Adjudication), Bangalore. However, the Applicant failed to take timely and proactive steps to recover the amount confirmed by the Commissioner, instead choosing to await the outcome of the appeal—an approach that was unwarranted in the circumstances and led to avoidable delay.
- (xvii) The Applicant now seeks to justify the delay by citing zonal jurisdictional distinctions, asserting that the Liquidator’s public

² (2021) ibclaw.in 516 NCLAT



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notice was issued in Telangana, while the Applicant falls under the Andhra Pradesh zone. The Applicant further claims unawareness of the commencement of the CIRP and Liquidation proceedings, in addition to disruptions caused by the COVID-19 pandemic.

- (xviii) However, as noted in para 2 of the Application, the investigation was carried out by the DRI, Hyderabad unit, and the adjudication was done by the Commissioner in Bangalore. This shows a centralized handling of the matter. Thus, jurisdictional limitations as claimed by the Applicant are not sustainable.
- (xix) Moreover, other creditors whose registered offices are located outside Telangana have duly filed their claims within the specified period, as per the stakeholder list at page 47 of the Counter.
- (xx) It is a settled principle that a creditor must remain vigilant in securing its claim. The legal maxim **“vigilantibus non dormientibus jura subveniunt”** aptly applies—**the law aids the vigilant, not those who sleep over their rights.**
- (xxi) It is also a principle of law that **“ignorantia juris non excusat”**—**ignorance of the law excuses no one.** The Applicant’s claim of unawareness regarding the CIRP and liquidation proceedings does not absolve them from the responsibility to stay informed and act diligently to protect their rights.
- (xxii) The Hon’ble Supreme Court in **M/s. RPS Infrastructure Ltd. v. Mukul Kumar**³ held:

*“19. The second question is whether the delay in the filing of claim by the appellant ought to have been condoned by respondent no. 1. The IBC is a time bound process. There are, of course, certain circumstances in which the time can be increased. The question is whether the present case would fall within those parameters. The delay on the part of the appellant is of 287 days. The appellant is a commercial entity. That they were litigating against the Corporate Debtor is an undoubted fact. **We believe that the appellant ought to have been vigilant enough in the aforesaid circumstances to find out whether the***

³ AIRONLINE 202 SC 833



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Corporate Debtor was undergoing CIRP. *The appellant has been deficient on this aspect. The result, of course, is that the appellant to an extent has been left high and dry.”*

(xxiii) Furthermore, the Hon’ble Supreme Court in **M/s. RPS Infrastructure (supra)** emphasized that government departments have a special obligation to act with diligence, and that condonation of delay should not be treated as a routine indulgence. The Court observed:

“Government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for Government departments.”

(xxiv) In view of the above, this Adjudicating Authority finds that the Applicant failed to act diligently and has not shown sufficient cause to justify condonation of delay of 912 days in filing the claim. The Applicant cannot now seek to benefit from its own inaction.

Accordingly, this Application is hereby **dismissed** and disposed off.

Sd/-

SANJAY PURI
MEMBER (TECHNICAL)

Sd/-

RAJEEV BHARDWAJ
MEMBER (JUDICIAL)