



**IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH**  
*(Exercising powers of Adjudicating Authority under  
The Insolvency and Bankruptcy Code, 2016)*

**IA No. 502 & 503 of 2025** in **C.P. (IB) No. 14/BB/2017**  
*(Application under Section 60(5), Section 42 of the Insolvency and Bankruptcy  
Code 2016 and Section 5 of the Limitation Act, 1963, Read with Rule 11  
and Rule 32 of National Company Law Tribunal Rules, 2016.)*

**IN THE MATTER OF:**

**ASSISTANT COMMISSIONER OF STATE  
TAXES, DISTRICT- JALANDHAR- 3,**  
4<sup>th</sup> Floor, GST Bhawan, Near Bus Stand,  
Jalandhar, Punjab – 144001.

...Applicant

*Versus*

**MR. SHIVADUTT BANNANJE**  
Liquidator of *Falcon Tyres Limited*,  
#N-705, North Block, Manipal Centre,  
No. 47, Dickenson Road, Bangalore –560042

... Respondent

**IN THE MAIN MATTER OF:**

**EDELWEISS ASSET RECONSTRUCTION COMPANY LIMITED,**  
Edelweiss House, CST Road, Kalina,  
Santacruz (East), Mumbai– 400098.

...Petitioner/Operational Creditor

*Versus*

**M/S FALCON TYRES LIMITED,...**  
K.R.S Road, Metagalli, Mvsore,  
Karnataka – 570016

Respondent/Corporate Debtor

**Order Delivered on: 21/05/2026**

**Coram:** Shri Sunil Kumar Aggarwal, Hon'ble Member (Judicial)  
Shri Radhakrishna Sreepada, Hon'ble Member (Technical)

**COMMON ORDER**

**IA 502 of 2025**

1. The Interlocutory Application bearing **IA. No. 502 of 2025** is filed on 28.05.2025 by the **Assistant Commissioner of State Taxes, District- Jalandhar-3** (“Applicant”) against **Mr. Shivadutt Bannanje**, Liquidator of M/s Falcon Tyres Limited  
**IA No. 502 & 503/2025 in CP (IB) No. 14/BB/2017**



(“Corporate Debtor / Respondent”) seeking condonation of delay under Section 5 of the Limitation Act, 1963 read with Rule 11 of the National Company Law Tribunal Rules, 2016 for the following reliefs:

- a) *To allow the present application;*
- b) *To condone the delay, if any, in filing the claim before the Liquidator as well as the delay in approaching this Hon’ble Tribunal;*
- c) *To treat the accompanying I.A. No. 503 of 2025 as filed within time upon condonation of delay;*
- d) *To pass any other directions as this Hon’ble Tribunal may consider necessary in the interest of justice.*

**I.A. 503 of 2025**

2. This Interlocutory Application bearing I.A. No. 503 of 2025 is filed on 28.05.2025 by the Assistant Commissioner of State Taxes, District- Jalandhar-3 (hereinafter referred to as the “Applicant”) against Mr. Shivadutt Bannanje, Liquidator of M/s Falcon Tyres Limited (hereinafter referred to as the “Corporate Debtor” / “Respondent”) under Section 60(5) read with Section 42 of the Insolvency and Bankruptcy Code, 2016 read with Rule 11 of the National Company Law Tribunal Rules, 2016 and Section 5 of the Limitation Act, 1963 for the following reliefs:

- a) *To allow the present application;*
- b) *To direct the Respondent/Liquidator to admit the claim of the Applicant for an amount of Rs. 6,09,87,791/- (Rupees Six Crore Nine Lakh Eighty Seven Thousand Seven Hundred and Ninety One only) arising out of assessments under the Punjab Value Added Tax Act, 2005 and Central Sales Tax Act, 1956 and pay the same in accordance with law;*
- c) *To direct the Respondent/Liquidator to treat the Applicant as a secured creditor in view of the first charge created under Section 34 of the Punjab Value Added Tax Act, 2005;*
- d) *To pass any other directions as this Hon’ble Tribunal may consider necessary in the interest of justice.*

3. The present Applications IA 502/2025 and IA 503/2025 preferred in the main Company Petition bearing C.P (IB) No. 14/2017 are complementary to each other hence are being taken up, heard and decided by this common order.

4. The facts of the case are mentioned below:

- i. The Corporate Debtor was admitted to Corporate Insolvency Resolution Process vide order dated 01.05.2018. Gradually its liquidation was ordered on 30.12.2019 and the respondent was appointed the Liquidator.



- ii. The Liquidator had issued public announcement in Form B inviting claims from all stakeholders with the last date for submission of claims being 29.01.2020.
- iii. The Applicant has raised a total demand of **Rs. 6,09,87,791/-** against the Corporate Debtor under the Punjab Value Added Tax Act, 2005 and Central Sales Tax Act, 1956 for the assessment years **2010-11, 2013-14** and **2014-15**. The Assessment Orders were duly served upon the Corporate Debtor by email, post, and by affixing at the declared business premises of the Corporate Debtor under the Punjab Value Added Tax Act located at Jalandhar in Punjab as the Corporate Debtor failed to come forward for finalisation of the Assessment Proceedings of the Corporate Debtor.
- iv. Thereafter, during the course of recovery proceedings, the Applicant came to know in October 2023 through the GST portal that the Corporate Debtor was under liquidation. Upon gaining knowledge, the Applicant immediately sent a recovery notice to the Liquidator vide email dated 10.10.2023. Subsequent reminders were also sent on 11.10.2024.
- v. The Liquidator vide email dated 15.10.2024 directed the Applicant to file its claim in the prescribed format under Regulation 17 of the IBBI (Liquidation Process) Regulations, 2016. The Applicant, after obtaining necessary documents from the Registry of this Tribunal, filed its claim for Rs. 6,09,87,791/- before the Liquidator on 11.11.2024.
- vi. The Respondent/Liquidator, however, vide email dated **13.11.2024**, rejected the Applicant's claim solely on the ground that the last date for filing claims had expired on **29.01.2020**, thereby advising the Applicant to approach this Tribunal.
- vii. The Applicant thereafter followed due administrative procedure for obtaining sanction to file the present applications before this Tribunal. After obtaining necessary approvals, including from the office of the Advocate General, Punjab, and appointment of a law officer, the present applications were filed on **28.05.2025**.
- viii. The delay in filing the claim and approaching this Tribunal was due to genuine administrative reasons such as bifurcation of the Jalandhar District on 17.11.2021 for purpose of tax administration, leading to creation of District Jalandhar 3, resulted in reallocation of files, causing further delay in tracing and processing the  
**IA No. 502 & 503/2025 in CP (IB) No. 14/BB/2017**



matter. The limitation under Section 42 could not be adhered to owing to genuine procedural constraints mandatory procedural requirements for sanction, and other unavoidable circumstances including national exigencies including Operation Sindoor and ensuing civil defence drills pursuant to circulars dated 02.05.2025 and 05.05.2025, adversely impacted administrative efficiency

- ix. The Applicant was never informed by the Resolution Professional or the Liquidator about the initiation of CIRP and the liquidation proceedings of the Corporate Debtor which is contrary to Section 83 of the PVAT Act, 2005 which mandates the Applicant to inform of the liquidation proceedings to the Assistant Commissioner State Tax Jalandhar-3 which contributed to the Applicant's unawareness and consequent delay in filing the claim.
- x. Thus the delay in filing the claim and approaching this Tribunal was bona fide and procedural, arising from mandatory administrative processes and extraordinary circumstances beyond the Applicant's control.
- xi. The dues are recoverable as arrears of land revenue and enjoy first charge on the properties of the Corporate Debtor under Section 34 of the Punjab Value Added Tax Act, 2005.
- xii. Therefore, the Applicant is entitled to be treated as a Secured Creditor and its claim deserves to be admitted and paid accordingly.

5. The Respondent has filed common objections on 25.11.2025 contending that:

**i. No Case Made Out To Condone Delay Of 1784 Days:**

- A. The present applications deserve to be dismissed at the threshold on the ground of gross, inordinate and unexplained delay. The liquidation order was passed by this Tribunal on 30.12.2019. The Liquidator had duly published the public announcement in Form B in newspapers and on the IBBI website, notifying the last date for submission of claims as 29.01.2020.
- B. The Applicant however, filed its claim only on 11.11.2024 after a delay of 1784 days and approached this Tribunal on 28.05.2025 and no cogent or legally acceptable explanation has been offered for such extraordinary delay except administrative delays and the reasons cited by the Applicant including, sanction



requirements, district bifurcation, civil defence drills etc. do not constitute sufficient cause under Section 42(3) of the Code.

- C. It is a settled position of law that public announcement in Form B under the IBBI (Liquidation Process) Regulations, 2016 constitutes constructive notice to all stakeholders, including Government departments. The Applicant's plea of ignorance is not tenable. Government departments cannot claim ignorance once Form B is published.
- D. The liquidation process under the Code is a time-bound mechanism designed to ensure finality and equitable distribution and admission of such belated claims would derail the entire process, prejudice stakeholders who have filed their claims in time, and open floodgates for similar delayed claims.

- ii. **Liquidation Process is Complete And Proceeds Distributed:** The Respondent submits that liquidation process has reached an advanced stage and all assets of the Corporate Debtor have been sold and the sale proceeds have been substantially distributed amongst the stakeholders as per Section 53 of the IBC as far back as 28.12.2023 and belated claims cannot be admitted at this stage, as it would disturb the settled waterfall mechanism and cause serious prejudice to other stakeholders.
- iii. **Applicant cannot be treated as a Secured Creditor:** The Respondent submits that the Applicant's claim to be treated as a "secured creditor" on the basis of a statutory charge under Section 34 of the PVAT Act, 2005 is misconceived and contrary to the provisions of the IBC as a statutory charge does not amount to "security interest" as defined under Section 3(31) of the IBC, which requires creation by a "transaction". Further, the Hon'ble Supreme Court in *Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat Pvt. Ltd., Civil Appeal No.7976 of 2019*) has clarified that *State Tax Officer v. Rainbow Papers Ltd. Civil Appeal No.1661 of 2020* cannot be read to override the waterfall mechanism under Section 53 of the IBC. Tax dues rank as Government dues and are governed by the priority laid down in Section 53 and allowing the Applicant to leapfrog over secured financial creditors would defeat the legislative intent of the IBC and destabilize the credit ecosystem.
- iv. **Provisions of IBC override the inconsistent provisions of PVAT Act, 2005 as per Section 238:** The Applicant's contention that the Liquidator was under an



obligation to inform the jurisdictional Commissioner/designated officer under Section 83(1) of the PVAT Act, 2005 is misconceived and contrary to the scheme of the IBC. The IBC does not cast any obligation on the liquidator to individually notify or correspond with each government department or statutory authority. Rather, it mandates issuance of a public announcement, which was duly made by the Liquidator. The IBC that lays down a time-bound and comprehensive insolvency and liquidation framework. It overrides any inconsistent provisions of other enactments by virtue of Section 238, which is a non obstante clause giving the IBC paramountcy over other laws. Consequently, even if any provision of the PVAT Act, 2005 were to require separate or individual notice to the Commissioner, such a requirement would stand overridden by the IBC. In terms of the IBC, the Public Announcement is sufficient notice to all stakeholders and the Applicant's plea of ignorance is untenable. The failure, if any, of the Applicant to file its claim within the prescribed timeline is entirely attributable to its own inaction and no contravention of the PVAT Act, 2005 can be alleged when the liquidator has strictly followed the provisions of the IBC and its subordinate regulations.

- v. Therefore, the Respondent has urged for dismissal of both the applications and pass any other orders as this Tribunal may deem fit in the interest of justice.
6. We have heard the Learned Counsels for the Parties and carefully perused the material on record. The Applicant has placed on record following citations:
- a. *State Tax Officer v. Rainbow Papers Ltd, Final Order dated 06.09.2022 passed by the Hon'ble Supreme Court of India in Civil Appeal No 1661 of 2020 with Civil Appeal No 2568 of 2020*
  - b. *Slipco Construction Pvt. Ltd. Vs Shri Abhijit Guhathakurta, Liquidator of EPC Construction India Limited, Order dated 12.09. 2023 in Company Appeal No.20/2023 in C.P. (IB) No. 1832/MB/2017*
  - c. *Principal Commissioner of Income Tax, Rohtak vs Rakesh Ahuja, Liquidator of Tara Chand Rice Mills Private Limited , Order dated 2.05.2023 in IA 129/2022 in CP (IB) 121/Chd/2017*
  - d. *Shri, Konduru Prashanth Rajum Liquidator of Base Corporation vs Principle Chief Commissioner of Income Tax , Bengaluru & Ors., Order Dated 25.07.2025 in IA 310/2024 in CP IB 220/BB/2018 passed by this Tribunal*
  - e. *Canara Bank vs Commercial Tax Department Circle 09, Indore, Madhya Pradesh & Anr, and Judgement dated 22.05. 2023 passed by the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) 655 of 2023.*



- f. *Bharti Goyal vs Hector Realty Ventures Private Limited, Judgement dated 20.08.2025 passed by the Hon'ble NCLAT in Company Appeal (AT) (Insolvency) 1545 of 2024.*
- g. *Shri Dutt India Pvt. Ltd. Vs Ashok Kumar Golecha, Liquidator of Spark Green energy Satara Ltd. Judgement dated 10.07.2025 passed on by the Hon'ble NCLAT Company Appeal (AT) (Insolvency) 1545 of 2024.*
7. Admittedly, after passing of Liquidation order dated 30.12.2019, the Respondent/Liquidator caused a public announcement in Form B under Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016 inviting claims from all stakeholders and fixed **29.01.2020** as the last date for submission of claims. The Applicant has filed its claim before the Liquidator on **11.11.2024** with delay of 1784 days. Further, the present Applications came to be filed on 28.05.2025 after rejection of the claim by the Liquidator vide communication dated 13.11.2024.
8. The principal contention of the Applicant is that the delay occurred due to administrative reasons including bifurcation of the tax district, procedural approvals, reallocation of files, obtaining sanction from the office of the Advocate General, Punjab and other administrative exigencies. The Applicant has further contended that he remained unaware of the status of the Corporate Debtor due to non-communication by the Liquidator as contemplated under Section 83 of the Punjab Value Added Tax Act, 2005.
9. The Respondent/Liquidator has strongly opposed the Applications contending that the liquidation process under the IBC is a strict time-bound process and all stakeholders are required to adhere to the timelines prescribed under the Code and the Regulations. It is submitted that due public announcement in Form B was issued in newspapers and on the website of IBBI and therefore the Applicant cannot plead ignorance of the liquidation proceedings and the Respondent has further submitted that the reasons cited by the Applicant such as administrative delays, movement of files, internal governmental approvals and procedural requirements do not constitute sufficient cause for condonation of such extraordinary delay.
10. As we know, IBC is a complete code in itself intended to ensure time-bound insolvency resolution and liquidation of corporate persons. The timelines prescribed under the Code and the Regulations are mandatory in nature and are fundamental to the objective of ensuring certainty, finality and maximisation of value of assets.



11. In compliance of the provisions of the IBC and the applicable Regulations therefore, the Liquidator had issued public announcement in Form B. Once such public announcement is made, all stakeholders including Government Departments are deemed to have constructive notice of the liquidation proceedings. The plea raised by the Applicant that it had no knowledge of the liquidation proceedings till October 2023 cannot therefore be readily accepted.
12. We also find that the explanation offered by the Applicant for condonation of delay is vague, undefined, grossly insufficient and does not constitute good and sufficient cause within the meaning of law. Administrative delays, departmental approvals, movement of files, bifurcation of districts and internal governmental procedures are routine administrative matters and cannot justify condonation of an enormous delay of nearly five years during which time the liquidation process has reached near culmination. Pertinently the Applicant states that the Assessment Orders against the Corporate Debtor were pasted on declared business premises of the Corporate Debtor under the Punjab Value Added Tax Act as it failed to come forward for finalisation of the Assessment Proceedings ***but the location and proof of service on said declared business premise of Corporate Debtor is not disclosed given that the Registered Office of CD is in Mysore, Karnataka where the notice seems to have not been served by any mode. The service of the notice on the Corporate Debtor for the assessment thus appears doubtful. We will stop at that lest it is construed that the assessment under another enactment is getting questioned.***
13. With regarding to the sufficient cause for cause of delay, it was held by Hon'ble Supreme Court in ***Office of the Chief Post Master General & Ors. v. Living Media India Ltd. & Anr. (2012) 3 SCC 563*** that: -
  - 12) *It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a part before us. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The*



*claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.*

*13) In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The 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. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay.”*

14. The Applicant has cited the judgement dated 22.05.2023 of the Hon’ble NCLAT in ***Canara Bank vs Commercial Tax Department Circle 09, Indore, Madhya Pradesh & Anr, Company Appeal (AT) (Insolvency) 655 of 2023*** of which para 12 is reproduced below”

*“8. Be that as it may, the said judgement of the Hon’ble Supreme Court which has been relied by Learned Counsel for the Appellant was a case where delay of 663 days was in filing the Appeal. The present is a case where the claim was filed with 19 days delay and after not acceptance of the claim by the Liquidator, Appeal was filed with delay of 111 days. It is submitted that the time for filing the Appeal under Section 42 is 14 days only. The present is a case where claim was admitted in the CIRP Process and when Liquidation commenced the claim was filed of the same amount with interest claim hence we are of the view that in the interest claim, the rejection on the ground that it is filed with the delay was not correct and has already been set aside by the Adjudicating Authority. The delay in filing the Appeal under Section 42 is clearly condonable while exercising the power under Section 5 of the Limitation Act”*

***[Emphasis Supplied]***

15. The facts before Hon’ble Appellate Tribunal were materially different from those here, for the judgement to come to aid of the Applicant. In the present case there has been a delay of approximately 1784 days from 29.01.2020 to 11.11.2024 in filing the claim with Liquidator and a further delay of 196 days in filing appeal against decision of the Liquidator both of which are very-very large periods as compared to the prescribed timelines.



16. The Applicant has also cited ***Bharti Goyal Vs. Hector Realty Ventures Private Limited, passed in Company Appeal (AT) (Insolvency) 1545 of 2024*** and ***Shri Dutt India Pvt. Ltd. Vs. Ashok Kumar Golecha, Liquidator of Spark Green Energy Satara Ltd.***, Company Appeal (AT) (Insolvency) 52 of 2025 but facts in those cases were different as ***Bharti Goyal (supra)*** dealt with belated claims of Homebuyers in CIRP where there was allegations of fraud in withdrawing Hector Realty Ventures Private Limited from CIRP and in ***Shri dutt India (Supra)*** dealt with claim acknowledged in books of the Corporate Debtor, as such the proposition laid in different context is not applicable in present case
17. Similarly the judgements of the coordinate bench cited by the Applicant in ***Slipco Construction (Supra)*** and ***Principal Commissioner of Income Tax, Rohtak (supra)*** are also not applicable to the facts of this case as in ***Slipco Construction*** claim was admitted in the CIRP but rejected in liquidation whereas in ***Principal Commissioner of Income Tax, Rohtak (supra)***, the claim was there in books of accounts but in the instant case there is no material on record to show that claim of tax department was in the books of accounts of the corporate Debtor and the claim had not submitted during CIRP of CD by the applicant. The order passed by this tribunal in ***Konduru Prashanth Raju (Supra)*** is also not applicable to the present case as that case involved Refund from Income Tax Department.
18. Further, the Hon'ble NCLAT, Chennai in the case of ***Sansar Investment and Finance Company Pvt. Ltd. v. Atlantic Spinning and Weaving Mills Ltd., (2026) ibclaw.in 331 NCLAT***, has held that
- “15. The provisions of Section 5 of the Limitation Act, which has been attempted to be attracted by the Ld. Counsel for the Appellant for the purposes of seeking condonation of 1616 days of delay, if we look into the provisions of Section 5 of the Limitation Act in itself, the same will not be attracted, particularly when the provisions of Section 42 of the I & B Code in itself does not contain or provides for a scope of extension of time period other than as prescribed therein for the purposes of preference of an appeal that, means the provisions of Section 42 of the I & B Code from the aspect of the limitation is a self-contained provision under a special statute and once it doesn't prescribe for any scope of extension of time period by borrowing or reference to other provision for condonation of delay i.e., under Section 5 of the Limitation Act or the provisions contained under Section 238A of the of the I & B Code, will not be attracted to override a specific bar of extension of time period in the absence of the same being prescribed under the provisions contained under Section 42 of the I & B Code. Thus, the argument extended by Ld. Counsel for the Appellant that he would be covered by Section 238A of*



*the I & B Code, will not be attracted, owing to the aforesaid reasons, as we have already discussed in the preceding paragraph.*

*16. Besides that, even if we look into the factual backdrop of the instant case, the number of days of delay that has chanced in preferring the appeal under Section 42 of the I & B Code is too long period to be considered for condonation of delay because that deceives the very object of the preference of an appeal under Section 42 of the I & B Code, as there happens to be a delay of total 1616 days of delay and after exclusion of 895 days of delay, there would still be a delay of 716 days, which is much beyond the statutory object or frame work of law.*

*17. Under either of the circumstances, the number of days of delay that has been sought to be condoned would be much beyond the ambit of the condonation of delay as prescribed under Section 42 of the I & B Code and the same has been rightly refused to be extended by the Ld. Tribunal while rejecting the appeal preferred under Section 42 of the I & B Code”.*

19. Thus, for the reasons and in view of the above decisions of the Hon’ble Supreme Court and the Hon’ble NCLAT, the delay in filing of an Appeal under Section 42 cannot be condoned.
20. The contention of Applicant that the Liquidator ought to have individually informed the jurisdictional tax authorities under Section 83 of the Punjab Value Added Tax Act, 2005 is untenable. The IBC contains a non obstante clause under Section 238 which gives overriding effect to the provisions of the Code over any inconsistent provisions contained in any other enactment. The Code does not mandate issuance of separate/ individual notices to each Government Department once public announcement is duly made. Therefore, the requirement of public announcement under the IBC sufficiently satisfies the obligation of notice to stakeholders.
21. We also find merit in the submission of the Respondent that the liquidation process has already reached an advanced stage and the assets of the Corporate Debtor have been sold and the sale proceeds distributed amongst stakeholders in accordance with Section 53 of the IBC as entertaining a highly belated claim at this stage would disturb the settled waterfall mechanism envisaged under the Code and would seriously prejudice the rights of stakeholders who had lodged their claims within time. This may also be construed as putting premium at the fault/negligence of Applicant.
22. The Applicant has further sought to contend that by virtue of Section 34 of the Punjab Value Added Tax Act, 2005, its dues constitute a first charge over the assets of the Corporate Debtor and therefore the Applicant ought to be treated as a Secured Creditor whereas the Respondent has relied on the Judgement of the Hon’ble Supreme Court



in in *Paschimanchal Vidyut Vitran Nigam Ltd. v. Raman Ispat Pvt. Ltd, Civil Appeal No.7976 of 2019* wherein the Hon'ble Supreme Court has clarified that statutory dues payable to Government authorities are governed by the waterfall mechanism prescribed under Section 53 of the IBC and statutory first charge provisions under State enactments cannot override the scheme of distribution contemplated under the Code.

23. In this regard it is necessary to refer to relevant portion of the admission order dated 1.05.2018 which states about and the same is reproduced below:-

2. Brief facts, leading to filing of the present Company Petition, are as follows:-
  - a) Edelweiss Asset Reconstruction Company Limited (Financial Creditor) is the Trustee of EARC Trust SC 134,(which is herein referred to as Petitioner/ Financial Creditor) , was incorporated on 5<sup>th</sup> October 2007 having CIN No. **U67100MH2007PLC174759**. Its registered office is situated at Edelweiss House, Off C.S.T Road, Kalina, Mumbai-400098.
  - b) Falcon Tyres Limited (Respondent/Corporate Debtor) was incorporated on 29<sup>th</sup> November 1973 having its CIN No. **L25114KA1973PLC002455**. Its Registered office is situated at K.R.S Road, Metagalli, Mysore-570016 and authorized share capital is Rs. 20,00,00,000/- divided into 1,00,00,000 of Rs 5/ each. The paid up share capital is Rs. 38,73,62,900/- divided into 7,74,72,580 of Rs 5/ each.
  - c) The Corporate Debtor has applied for a Term Loan of Rs 50,00,00,000/- (Rupees Fifty Crores) from The South Indian Bank Limited, Mysore Main Branch for the purpose of expansion by installing additional production capacity. Accordingly, the Bank has sanctioned the above Term Loan vide sanction letter dated 31/12/2009 for the purpose of expansion by installing additional production capacity. The Corporate Debtor has furnished necessary property charge as mentioned in Agreement to Mortgage Deed dated 31<sup>st</sup> August 2010.
  - d) The South Indian Bank Limited and Edelweiss Asset Reconstruction Company Limited (EARCL) has entered into an Assignment Agreement on 30<sup>th</sup> March 2015 inter-alia assigned all loans rights of South Indian Bank Limited given to the Respondent/Corporate Debtor viz collecting any monies pertaining to the loans including amount due or any Security Interest and /or pledge including the proceeds of any enforcement of payment of all loan to

24. The para 2 (c) of the admission order dated 01.05.2018 makes it clear that the term loan granted by the South Indian Bank to the Corporate Debtor vide sanction letter dated 31.12.2008 was secured by agreement to Mortgage dated 31.08.2010 (which is annexed at Annexure-D of the main petition) by which Corporate Debtor had agreed to furnish primary security by way of first charge of hypothecation of plant and machinery and civil works arising out of term loan on *pari-passu* basis among other



term loan lenders participating in the proposed project and the Corporate Debtor further agreed to furnish collateral security by way of second charge on all fixed assets including factory land and building on which first charge is with existing bankers/Financial Creditors

25. The assessment order passed by the Applicant under Section 29(2) of the PVAT Act, 2005 and u/s 9(2) of the Central Sales Tax Act, 1956 is dated 30.01.2015. It is said to create statutory first Charge over the properties of Registered Corporate Person and the dues are recoverable as arrears of land revenue under Section 34 of the Punjab Value Added Tax Act, 2005. The priority of multiple charges however will be as per Section 48 of the Transfer of Property Act, 1882. Based thereon, the Applicant cannot have first charge over the assets of the Corporate Debtor as South Indian Bank (which later assigned its loans to Edelweiss Asset Reconstruction company) created charge over property of the Corporate Debtor much earlier in time, on 31.08.2010. Since the prior charge of Financial Creditor could not be fully met out of the assets of CD on distribution, the Applicant cannot expect to percolate any amount to it, even if its claim were directed to be admitted by the respondent and it will all be an exercise in futility, further prolonging the culmination of case.
26. We are thus of the considered view that the Applicant has failed to establish any sufficient or justifiable cause for condonation of the extraordinary delay of 1784 days in filing the claim before the Liquidator and the consequential delay of 196 days in approaching this Authority with Appeal and Applicant does not hold first charge over the property/assets of the Corporate Debtor in view of Section 48 of the Transfer of Property Act, 1882.
- 27. Accordingly, I.A. No. 502 of 2025 seeking prayer of condonation of delay in filing of this Appeal is dismissed. I.A. No. 503 of 2025 seeking direction to admit the belated claim, for the reasons afore-stated, also stands dismissed.**

-Sd/-

**RADHAKRISHNA SREEPADA**  
**MEMBER (TECHNICAL)**

-Sd/-

**SUNIL KUMAR AGGARWAL**  
**MEMBER (JUDICIAL)**