2026 INSC 1121

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 7882 OF 2023

THE ASSISTANT COMMISSIONER OF CENTRAL TAX, CGST DIVISION ... **APPELLANT(S)**

VERSUS

SREENIVASA RAO RAVINUTHALA AND ANOTHER ... **RESPONDENT(S)**

J U D G M E N T

S.V.N. BHATTI, J.

1. The Civil Appeal arises from the final Judgment and Order dated 02.08.2023, passed by the National Company Law Appellate Tribunal ("NCLAT"), Chennai, in Company Appeal (AT) (CH) (INS) No. 346 of 2021, under Section 62 of the Insolvency and Bankruptcy Code, 2016 ("the IBC"). The Civil Appeal was filed on 21.11.2023. Respondent No. 2 raises a preliminary objection on limitation.

2. We have heard Mr. Saurav Roy, learned Counsel, for the Appellant, and Mr. Ritin Rai, learned Senior Counsel, for Respondent No.2 on the preliminary objection. The following circumstances are noted for appreciating Respondent No.2's preliminary objection.

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3. The Corporate Debtor/M/s Samyu Glass Private Limited, a Company incorporated under the Companies Act, 1956, manufactured high-quality glass containers and was registered as an Export Oriented Unit. Between 2013 and 2017, the Central Excise and Service Tax Department initiated multiple excise recovery proceedings against the Corporate Debtor. Around November/December 2016, the Corporate Debtor stopped its manufacturing activity. The Corporate Debtor subjected the demands raised by the Appellant to challenge before the Customs, Excise and Service Tax Appellate Tribunal ("CESTAT"). Andhra Bank, now Union Bank of India, a Financial Creditor of the Corporate Debtor, filed a Petition under Section 7 of the IBC to initiate the Corporate Insolvency Resolution Process ("CIRP") against the Corporate Debtor. The Adjudicating Authority admitted the Section 7 Application and initiated the CIRP. Respondent No.1 is the Resolution Professional appointed under the IBC. When the Department convened a Joint Pricing Committee meeting on 04.11.2019 to fix the reserve price for auctioning the attached machinery, Respondent No. 1 informed the Department that a moratorium had been imposed prohibiting third-party Authorities from disposing of any of the Corporate Debtor's assets. Thereafter, on 27.11.2019, the Deputy Commissioner of Central Tax submitted a proof of claim (Form F) for Rs. 22,60,32,948/- (Rupees Twenty Two Crores Sixty Lakhs Thirty Two Thousand Nine Hundred and Forty Eight). The Corporate Debtor, through the Resolution Professional, under the *Sabka Vishwas* (Legacy Dispute Resolution) Scheme, 2019, approached the Appellant to settle Central Excise arrears. The Resolution Professional presented a Scheme for

Rs.4,32,80,741/- (Rupees Four Crores Thirty-Two Lakhs Eighty Thousand Seven Hundred and Forty-One) for settlement before the Revenue. On 13.08.2021, the National Company Law Tribunal, Hyderabad ("NCLT"), approved the Resolution Plan, and under the approved Resolution Plan, a sum of Rs. 1,34,657/- (One Lakh Thirty-Four Thousand Six Hundred and Fifty-Seven) was approved towards the excise arrears payable to the Appellant by the Corporate Debtor. The Appellants, questioning the Resolution Plan, moved NCLAT, Chennai in Company Appeal (AT) (CH) (Ins.) No. 346/2021. Through the impugned Order dated 02.08.2023, NCLAT confirmed the Resolution Plan dated 13.08.2021 approved by the NCLT, Hyderabad. Accordingly, on 21.11.2023, the Revenue filed the Civil Appeal under Section 62 of the IBC.

4. Mr. Ritin Rai, for Respondent No.2 argues that the IBC is a complete Code providing for statutory remedies to aggrieved persons against the Orders made under the IBC. The remedies include Appeals to the NCLAT and this Court. The Code sets a limitation period for filing an Appeal and allows for a condonable period if the Appeal is not filed within that time. The limitation period, including the condonable period, in the case on hand starts on 03.08.2023 and ends on 01.10.2023, i.e., the 60th day. The Appeal was filed on 21.11.2023, i.e., the 111th day. Therefore, the Appeal is barred by the period of limitation of forty-five days and the condonable period of a further fifteen days. The Appeal ought to have been filed on or before 01.10.2023. It is argued alternatively that the aggrieved party can file an Appeal within forty-five days from the date of receipt of the Order. That the receipt of such Order is not an indefinite or fluctuating period. At best, the period spent by a party

in securing the Order alone will have to be excluded for reckoning the period of limitation and the condonable period of limitation. In the case on hand, the Appellant, on 06.09.2023, applied for a copy of the Order dated 02.08.2023. The Appellant, on 11.10.2023, received a certified copy of the Order. Even if the period between 06.09.2023 and 11.10.2023 is excluded for the purpose of limitation, the Appeal ought to have been filed by 05.11.2023. Therefore, on both counts, the Appeal dated 21.11.2023 is barred by limitation. Unless and until the Appeal is presented within the period of limitation, this Court ought not to examine the merits of the matter.

5. Mr. Saurav Roy, for the Appellant, argues that the period of limitation and condonable period of limitation calculated by Respondent No.2 does not take note of the word "*notwithstanding*" in Section 61, and the expression "*within forty-five days from the date of receipt of such order"* in Section 62(1), read with corresponding Sections 421 and 423 of the Companies Act, 2013. The argument proceeds on the reasoning that Section 62 of the IBC sets out the right of Appeal to this Court and conditions such right with a limitation period of sixty days. On a conjoint reading of the provisions, the Appellant contends that the time starts running from the date of receipt of such Order. In other words, the period of limitation and the condonable period of limitation ought to be reckoned, in the case on hand, from 11.10.2023, and the filing of the Appeal on 21.11.2023 is within forty-one days and falls within the period of limitation. A simple reading of Section 62(1) yields the following scenario:

> *"Any person aggrieved by an order of the National Company Law Appellate Tribunal may file an appeal to the Supreme Court on a question of law arising out of such order under this*

Code within forty-five days from the date of receipt of such order."

5.1 By juxtaposing and comparing the expressions in Sections 61 and 62 of the IBC, namely, "*the date the Order is made available"* and "*the receipt of the Order"* in the respective sections, it is argued that the decisive starting point is the receipt of the Order, not the date of the Order under Section 62 of the IBC. Therefore, the certified Copy was received on 11.10.2023, and the Appeal was presented on 21.11.2023, which is well within the period of limitation.

6. The argument against the preliminary objection is referred to, and in more than one sense. By virtue of the following binding precedents of this Court, the period of limitation and the condonable period of limitation are no longer *res integra*:

a. *Sagufa Ahmed and Others v. Upper Assam Plywood Products Private Limited and Others*[1].

b. *V. Nagarajan v. SKS Ispat and Power Limited and Others*[2].

c. *CA Ramchandra Dallaram Choudhary v. Adani Infrastructure and Developers Private Limited*[3].

7. *Sagufa Ahmed* (*supra*) lays down that the law of limitation is rooted in the Latin maxim *vigilantibus et non dormientibus jura subveniunt,* i.e., the law assists only those who are vigilant about their rights, not those who sleep on them. The expression "*prescribed period"* in the Limitation Act, 1963 ("Act,

[1] (2021) 2 SCC 317.
[2] (2022) 2 SCC 244.
[3] 2026 SCC OnLine SC 1097.

1963") is synonymous with the statutory "*period of limitation*" computed in accordance with the Act. Any discretionary window beyond the prescribed period, i.e., during which an Appellate Tribunal or court may condone delay on sufficient cause, cannot be treated as part of the prescribed period.

8. In *V. Nagarajan* (*supra*), this Court considered the scheme of the IBC and, in parallel, examined the applicability of the provisions of the Act, 1963 to the IBC. Instead of culling out the excerpts, we will paraphrase the ratio of *V. Nagarajan* (*supra*) as follows:

A. The IBC is an exhaustive, self-contained code. By virtue of the non-obstante clause in Section 238 of the IBC, its provisions prevail over any inconsistencies with other statutes. While Section 238-A of the IBC applies the provisions of the Act, 1963 "*as far as may be*", this is subject to Section 29(2) of the Act, 1963. Where a special statute provides a distinct period of limitation, that period governs to the exclusion of general provisions, and the IBC, being a special law, would have an overriding effect. Section 61(1) of the IBC starts with a non-obstante clause. Consequently, the appellate mechanisms under the Companies Act cannot control or relax the statutory architecture of the IBC.

B. Rule 22(2) of the NCLAT Rules, 2016 mandates that every Appeal be accompanied by a certified copy of the impugned Order. Section 12(2) of the Act, 1963 excludes the time required to obtain a copy of the impugned Order. The Explanation to Section 12 of the Act, 1963 makes it clear that any time the Tribunal or Court takes to prepare the Order before the litigant applies for a copy cannot be excluded. If a party fails to apply for a certified copy within

the limitation period, no time can be excluded under Section 12(2) of the Act, 1963. Applying for a certified copy is not a mere procedural formality; it reflects the aggrieved party's due diligence.

C. Section 61(2) of the IBC prescribes a 30-day period for filing an Appeal, extendable by a maximum of 15 days upon demonstration of sufficient cause, and no more. Courts and Tribunals have no power under Section 5 of the Act, 1963, or inherent powers to condone delays beyond the outer limit of 15 days prescribed in special statutes. The IBC's foundational architecture weaves speed and strict timelines to preserve asset value, maximise recovery for lenders, and protect economic health. Procedural rules cannot be interpreted to protract litigation indefinitely.

9. Similarly, and closer to the case at hand, is *CA Ramchandra Dallaram Choudhary* (*supra*). The gist of the findings is as follows:

A. The IBC's limitation scheme is strict and time-bound, making condonation of delay outside the statutory framework impermissible. Under Section 62 of the IBC, the absolute outer limit for filing an appeal is 60 days, i.e., the standard 45-day period plus a 15-day grace period upon showing sufficient cause. Beyond this period, the Court loses jurisdiction to condone any delay.

B. The right to appeal is permanently extinguished once the 60-day maximum window under the IBC closes and the 28-day window under the Supreme Court Rules, 2013 ("SCR, 2013") for curing defects lapses.

C. The SCR, 2013 are subordinate legislation and cannot override the IBC's express provisions. Therefore, the SCR, 2013 cannot grant an extended

window for re-filing if doing so would contravene the legislative intent behind the IBC's strict timelines.

10. Under Section 238-A of the IBC, the Act, 1963 applies to proceedings and appeals under the Code "*as far as may be*." The relevant statutory provisions are set out below:

> ***"Section 238-A, Insolvency and Bankruptcy Code, 2016:***
> *238-A. Limitation.—The provisions of the Limitation Act, 1963 (36 of 1963) shall,* ***as far as may be****, apply to the proceedings or appeals before the Adjudicating Authority, the National Company Law Appellate Tribunal, the Debt Recovery Tribunal or the Debt Recovery Appellate Tribunal, as the case may be."*
>
> *xxx. xxx*
>
> **"*Section 12, Limitation Act, 1963:***
> *"12. Exclusion of time in legal proceedings.— (1)*
> *xxx xxx*
> *(2) In computing the period of limitation for an appeal or an application for leave to appeal or for revision or for review of a judgment, the day on which the judgment complained of was pronounced and the time requisite for obtaining a copy of the decree, sentence or order appealed from or sought to be revised or reviewed shall be excluded.*
> *xxx* xxx
> *Explanation.—In computing under this section the time requisite for obtaining a copy of a decree or an order, any time taken by the court to prepare the decree or order before an application for a copy thereof is made shall not be excluded."*
>
> (*emphasis supplied*)

11. A clear distinction exists between the exclusion of time under Section 12 of the Limitation Act and the condonation of delay under Section 62(2) of the IBC. Section 62 provides an initial limitation period of 45 days from the date of receipt of the order, extendable by a discretionary condonable period of up to 15 days, creating an absolute outer ceiling of 60 days.

12. The phrase "*from the date of receipt of the order*" in Section 62(1) cannot be read as the date on which a party chooses to apply for and collect a certified copy. If the limitation clock remained suspended until physical collection at

the litigant's leisure, the limitation period would then become fluctuating and indefinite. Furthermore, Section 12(2) of the Act, 1963 would be rendered wholly redundant. There would be no reason for Parliament to make the exclusion of "*time requisite for obtaining a copy*" applicable via Section 238-A of the IBC if limitation did not already commence upon pronouncement.

13. The above precedents reinforce this distinction. In *Sagufa Ahmed (supra)*, this Court held that limitation under Section 421(3) of the Companies Act, 2013, ran from the receipt of the judgment, because Section 420(3), read with Rule 50 of the NCLT Rules, 2016, created a statutory right to receive a free certified copy. Conversely, as held in *V. Nagarajan (supra)*, the IBC is a complete Code that overrides the Companies Act, 2013 under Section 238 of the IBC. For an appeal to the Supreme Court under Section 62 of the IBC, the requirements and procedure for obtaining and filing a certified copy are governed by Order XIX Rule 3(2)(i), read with Rule 40 of the SCR, 2013. Because these provisions impose an affirmative obligation on the Appellant to proactively apply for and produce a certified copy, a litigant cannot claim to await a copy to keep the limitation period suspended.

14. Further, Rule 91 of the NCLAT Rules, 2016 reads as follows:

> *"91. Pronouncement of order.-*
> *(1) The Appellate Tribunal shall as far as possible pronounce the order immediately after the hearing is concluded.*
> *(2) When the orders are reserved, the date for pronouncement of order shall be notified in the cause list which shall be a valid notice of intimation of pronouncement.*
> *(3)* ***Reading of the operative portion of the order in the open court shall be deemed to be pronouncement of the order****."*
>
> (*emphasis supplied*)

On a bare reading of the Rule mandating pronouncement of the Order in open Court, knowledge and limitation would commence on the day the Rule is complied with. Consequently, the limitation period commences on the date the NCLAT pronounces the Order for an Appeal to this Court under Section 62 of the IBC. Under Section 12(2) of the Limitation Act, only the "*time requisite*" for obtaining a copy, i.e., the period between the filing of the Application and the date the certified copy is ready, is excluded. Under the Explanation to Section 12 of the Act, 1963, any period of inaction before filing the Application for a certified copy cannot be excluded and must be deducted from the statutory limitation period.

15. The following circumstances are noted:

i. The NCLAT pronounced the impugned Judgment on 02.08.2023**.**

ii. The Appellant applied for a certified copy on 06.09.2023 (the 35th day). The 35 days of inaction before filing the Application cannot be excluded and count directly against the initial 45-day statutory window.

iii. The Application remained pending with the Registry from 06.09.2023 until delivery on 11.10.2023 (35 days). This period constitutes "*time requisite*" under Section 12(2) of the Act, 1963, and is therefore excluded.

iv. Upon receipt of the certified copy on 11.10.2023, the limitation clock resumed. Having already consumed 35 days of the initial 45-day window, the Appellant had 10 days remaining to file within the statutory period (expiring on 21.10.2023) and a further 15 discretionary days under Section 62(2) (expiring on 05.11.2023).

v. The Appellant did not file the Appeal until 21.11.2023, consuming another 41 days after receipt of the copy.

16. Summing the actionable periods, i.e., 35 days before applying for the certified copy and 41 days after receiving it, yields a total of 76 days. The absolute statutory ceiling under Section 62 of the IBC is 60 days, i.e., 45 days plus 15 condonable days. Even after excluding the time taken to prepare the certified copy, the Appeal was filed 16 days beyond the absolute outer limit of this Court's jurisdiction to condone delay. Applying the above discussion to the present case, the Appeal is beyond the limitation period.

17. If the Appellant's argument that the limitation period begins on the day the copy of the Order is received is accepted, it would nullify both the limitation period and the condonable period, and make the right of Appeal subject to an indefinite and fluctuating period of limitation.

18. The preliminary objection is accordingly sustained. The Civil Appeal stands dismissed as barred by limitation. No order as to costs.

19. Pending application(s), if any, stand disposed of.

.....J.
[S.V.N. BHATTI]

.....J.
[N. V. ANJARIA]

New Delhi;
October 14, 2026.