2026 INSC 1003

REPORTABLE

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.__________OF 2026
(ARISING OUT OF DIARY NO.42931 OF 2026)

REGIONAL PROVIDENT FUND COMMISSIONER-II ...**APPELLANT**

vs.

MS. MAMTA BINANI & ORS. ...**RESPONDENTS**

J U D G M E N T

DIPANKAR DATTA, J.

1. This appeal, carried from the order dated 21st May, 2026, of the National Company Law Appellate Tribunal, New Delhi[1], has been belatedly presented beyond the prescribed period of limitation of 45 (forty-five) days but within the condonable limit of 15 (fifteen) days.

2. Cause shown in the application for condonation of delay is sufficient.

3. Delay is condoned; I.A. 247919 stands allowed.

4. Appellant in this appeal was also the appellant before the NCLAT. No opposing counsel defeated the appellant. Rather, failed 'one-time

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Reason:

[1] NCLAT

password' (OTP) deliveries ensured that the appellant was shown the door, thereby sealing its fate.

5. The facts relevant for our consideration are noted at the outset. A resolution plan dated 22nd April, 2024 (read with the financial proposal dated 22nd April, 2024 and clarificatory addendum dated 17th May, 2024) submitted by Ashdan Properties Private Limited[2] in respect of Rolta India Limited was approved by the National Company Law Tribunal[3], Mumbai, on 15th December, 2025. Aggrieved by the order of the NCLT approving the resolution plan, the appellant e-filed its appeal[4] before the NCLAT on 30th January, 2026, exactly one day after the permissible condonable period of delay under Section 61(2) of the Insolvency and Bankruptcy Code, 2016[5].

6. Appellant sought to explain the cause for one day's delay in presenting the appeal before the NCLAT in its application for condonation of delay[6]. The grace period of 15 (fifteen) days would have expired on 29th January, 2026. To meet the deadline, the appellant's counsel attempted to e-file the appeal on 28th January, 2026; however, due to technical defects in the NCLAT's e-filing portal, the appeal could not be e-filed that day. Appellant further contended that on 29th January, 2026 too, it did not leave any stone unturned to file the appeal, but the Registry of the NCLAT informed the appellant

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[2] Ashdan
[3] NCLT
[4] Comp. App. (AT) (Ins) No. 503 of 2026
[5] IBC
[6] I.A. No. 1951 of 2026

that there was a technical defect on the backend which was taking time to repair; thus, the appeal could not be e-filed on 29th January, 2026 either. Finally, on 30th January, 2026, the appeal came to be e-filed. Given that such circumstances were beyond its control, the appellant prayed that the application for condonation of delay be allowed.

7. However, much to the appellant's misfortune, the NCLAT vide the impugned order dated 21st May, 2026 rejected its application for condonation of delay and, consequently, the appeal stood dismissed as time-barred. The NCLAT observed that the NCLT's order approving Ashdan's resolution plan was pronounced on 15th December, 2025. The statutory period for filing an appeal within 30 (thirty) days under Section 61(2) of the IBC came to an end on 14th January, 2026, since limitation begins to run from the date of pronouncement of the order. Reliance in this behalf was placed on the decisions of this Court in ***Sanjay Pandurang Kalate v. Vistra ITCL (India) Limited & Ors.***[7] and ***V Nagarajan v. SKS Ispat and Power Limited and Ors.***[8]. The NCLAT also observed that the extendable period of 15 (fifteen) days, as per the proviso to Section 61(2) of the IBC, expired on 29th January, 2026, and it had no power to condone any delay in filing of an appeal beyond the 30 (thirty) + 15 (fifteen) day timeline as stipulated in Section 61(2) of the IBC. Reliance was placed on this

[7] (2024) 3 SCC 27
[8] (2022) 2 SCC 244

Court's decisions in ***National Spot Exchange Ltd. v. Anil Kohli, RP for Dunar Foods Ltd.***[9] and ***Tata Steel Ltd. v Raj Kumar Banerjee & Ors.***[10].

8. We have heard learned counsel appearing for the appellant, as well as learned counsel appearing for the respondent - resolution professional, appearing on caveat.

9. While we have no reason to either disapprove the NCLAT's discussion on the aspect of computing the period of limitation under Section 61(2) of the IBC or to disagree with the law laid down in ***National Spot Exchange Ltd.*** (supra) and ***Tata Steel Ltd.*** (supra), the facts of the present appeal are rather glaring and a different treatment would, of course, be justified.

10. In ***National Spot Exchange Ltd.*** (supra), hardship of the party was held not to afford any ground for the aggrieved litigant to approach the NCLAT beyond the period prescribed having regard to the plain words of the statute. ***Tata Steel Ltd.*** (supra) was a decision dealing with a situation where a minority shareholder had, owing to his own incorrect understanding of the law of limitation, belatedly filed an appeal before the NCLAT challenging an order of the relevant NCLT approving the resolution plan. These are decisions, which are authorities for the points which emerged for decisions therein and were decided accordingly.

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[9] (2022) 11 SCC 761
[10] (2025) 9 SCC 483

11. At this stage, we may profitably refer to ***Regional Manager v. Pawan Kumar Dubey***[11] where it has authoritatively been ruled by a 3-Judge Bench that:

> 7. … It is the rule deducible from the application of law to the facts and circumstances of a case which constitutes its ratio decidendi and not some conclusion based upon facts which may appear to be similar. One additional or different fact can make a world of difference between conclusions in two cases even when the same principles are applied in each case to similar facts.

12. In view of the stark difference in facts of the present appeal, neither the law laid down in ***National Spot Exchange Ltd.*** (supra) nor ***Tata Steel Ltd.*** (supra) did have any application on facts and in the circumstances and reliance placed thereon by the NCLAT appears to be wholly misconceived.

13. The central issue involved in this appeal can be crystallised in the form of a simple question: should a litigant be shown the door at the very first instance due to e-filing of an appeal beyond the statutorily condonable period, particularly when such a filing has been delayed for *bona fide* reasons beyond the litigant's control and when the fault was entirely at the end of the Registry of the NCLAT? We think not!

14. There is no gainsaying that the timelines set out in the IBC must be strictly adhered to, for reasons that need no elaboration here. Nonetheless, every case has to be viewed from the appropriate perspective. The appeal under Section 61(1) of the IBC came to be belatedly e-filed by the appellant, beyond the maximum statutory

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[11] (1976) 3 SCC 334

period contemplated in Section 61(2) of the IBC, not because of the appellant's ignorance of the law or due to any hardship or laches or negligence or fault that could be attributed to it. This is borne out by the NCLAT Registry's own report dated 6th May, 2026, which was submitted to the NCLAT pursuant to its order dated 29th April, 2026.

15. What can be gathered from the NCLAT Registry's report is that, the appellant had undertaken the requisite efforts to e-file the appeal starting from 28th January, 2026; still, due to technical issues with OTP delivery, the appeal could not be e-filed until 30th January, 2026.

16. In the current age, as the judiciary becomes increasingly digitised, scrutinising any delay due to technical difficulties beyond the litigant's control is all the more relevant.

17. Though Section 61(2) of the IBC does not provide discretionary power to the NCLAT to condone any delay beyond the maximum 45 (forty-five) day period stipulated therein, what was the 'course correction' available to be adopted by the NCLAT when the fault lay with its e-filing system?

18. The factual narrative bears testimony that the appeal came to be e-filed on 30th January, 2026, i.e., one day beyond the prescribed condonable limit by the appellant solely on account of a backend failure/technical glitch in the NCLAT's e-filing system. Appellant did, in fact, seek condonation of delay, which the NCLAT did not have the power to condone. We find no difficulty in agreeing with the NCLAT on this score.

19. However, given the nature of the system fault that impeded the e-filing of the appeal by the appellant and that the day's delay could hardly be attributed to it, the NCLAT ought to have invoked the higher principle of *"actus curiae neminem gravabit"*. Law is well-settled that limitation runs against a litigant only when the court/tribunal is open and functional, in the sense that it is capable of receiving the papers pertaining to the *lis* sought to be presented by a party aggrieved. When the system of the court/tribunal fails to receive the papers, which are sought to be presented *bona fide* and within the prescribed time, the litigant cannot be rendered remediless on the specious ground that the court/tribunal has no power to condone the delay. Though the appellant did pray, it was not a case for condonation of delay; rather, what was implicit in the appellant's prayer was that the NCLAT, in the peculiar facts and circumstances, may exempt the period for which the e-filing system was non-functional from the period of limitation and to hold that the appeal, in the eye of law, was presented within the 45 (forty-five) day outer limit.

20. No decision of this Court has been brought to our notice which bars a court/tribunal from granting such an exemption from the laws of limitation. Though the Code of Civil Procedure, 1908 may not be applicable to proceedings under the IBC, principles flowing from Order VII Rule 6 thereof can certainly be invoked in an appropriate case. Acknowledging that it is a system failure at its end, which requires correction, and to direct that the appeal be registered as filed within the outer condonable period of limitation by treating the date of the first *bona fide* attempt to e-file as the date of presentation, is what the justice of the case required. Absent such direction, it would tantamount to making the litigant suffer for the *actus curiae* (act of the court).

21. There is a plethora of decisions of this Court on *"actus curiae neminem gravabit"*, which we need not refer here for brevity, except the Constitution Bench decision in ***A.R. Antulay v. R. S. Nayak***[12]. There, this Court applied the said principle to recall and set aside directions given by another Bench on the ground of curing defects and removing irregularity therein.

22. Since the NCLAT was not precluded from invoking the *"actus curiae neminem gravabit"* principle in the absence of any remedy in Section 61, or in any of the other provisions of the IBC, we are of the considered opinion that the NCLAT committed an error by passing the impugned order, which has undoubtedly occasioned miscarriage of justice.

23. In view of the above, the appeal stands allowed, and the impugned order dated 21st May, 2026 of the NCLAT is set aside.

24. Consequently, Comp. App. (AT) (Ins) No. 503 of 2026 as well as I.A. No. 1951 of 2026 stands restored on the file of the NCLAT for reconsideration as to whether the appellant did show sufficient cause to condone the delay beyond 30 (thirty) days as stipulated in Section

[12] (1988) 2 SCC 602

61(2) of the IBC. The NCLAT may dispose of I.A. No. 1951 of 2026 at the earliest. Should the NCLAT decide in favour of the appellant, its appeal shall be registered and decided in accordance with law.

25. Parties shall, however, bear their own costs.

....................................J.
(DIPANKAR DATTA)

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(SHEEL NAGU)

NEW DELHI;
SEPTEMBER 10, 2026.