NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 1171 of 2026 &
I.A. No. 4571 of 2026

IN THE MATTER OF:

Income Tax Department **...Appellant(s)**

Versus

Prawincharan Prafulcharan Dwary, Resolution Professional of Jiya EcoProducts Ltd & Anr. **...Respondent(s)**

Present:

For Appellant : Mr. Aman A. Mir, Advocate.

For Respondents : Mr. Palash S. Singhai, Mr. Harshal Sareen, Ms. Aashima Guatam, Advocates for R-2/SRA.

Mr. Lokesh Malik and Ms. Atika Chaturvedi, Ms. Divya Goel, Advocates for R-1.

With
Comp. App. (AT) (Ins) No. 1172 of 2026 &
I.A. No. 4573 of 2026

IN THE MATTER OF:

Income Tax Department **...Appellant(s)**

Versus

Tejas K Shah, Liquidator of Bansal Infracon Pvt. Ltd. & Anr. **...Respondent(s)**

Present:

For Appellant : Mr. Aman A. Mir, Advocate.

For Respondents :

O R D E R
(Hybrid Mode)

21.08.2026 **I.A. No. 4571 of 2026** This appeal is filed against an impugned order dated *11/12/2024* passed by the Ld. NCLT, Ahemdabad in *I.A (Plan) No. 38/ 2024* in *C.P. (IB) No. 35/7/NCLT/AHM/2023*. There is a delay of *498* days in filing the appeal against the impugned order dated

11/12/2024. The reasons for the delay are mentioned in Paragraphs *4* to *19* of the application as under :-

> *4. On 21.01.2025, the Insolvency Professional, Prawincharan Dwary via an email that attached a copy of order dated 11.12.2024, informed about the approval of resolution plan with respect to the corporate debtor, Jiya Eco Products Limited by the Hon'ble National Company Law Tribunal, Ahmedabad Bench.*
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> *5. The Applicant states that on 21.01.2025, the aforementioned email of 21.01.2025 was forwarded to the then Senior Standing Counsel representing the Income Tax Department before the Hon'ble National Company Law Tribunal at Ahmedabad for information and necessary guidance.*
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> *6. Thereafter, the then Senior Standing Counsel representing the Income Tax Department on 22.01.2025 advised to challenge the order dated 11.12.2024 before the Hon 'ble National Company Law Appellate Tribunal. Further, the then Senior Standing Counsel requested to share necessary documents pertaining to the matter for the purpose of drafting an Appeal before the Hon 'ble National Company Law Appellate Tribunal.*
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> *7. The Applicant states that on 22.01.2025 and 23.01.2025, the Applicant's office shared necessary documents to the then Senior Standing Counsel representing the Income Tax Department.*
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> *8. Subsequently, on 23.01.2025, the Applicant sought approval for filing an Appeal before the Hon'ble National Company Law Appellate Tribunal from Principal Commissioner of Income Tax - 1, Ahmedabad.*
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> *9. The Applicant states that the Principal Commissioner of Income Tax - 1, Ahmedabad forwarded the Approval Letter to Chief Commissioner of Income Tax - 1, Ahmedabad.*
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> *10. Thereafter, the then Senior Standing Counsel representing the Income Tax Department sent a draft Appeal memo on 08.02.2025 to the Applicant's office.*
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> *11. The Applicant states that the draft sent by the then Senior Standing Counsel representating the Income Tax Department was vetted by the Applicant's office. Thereafter, on 10.02.2025, the original*

draft and vetted draft was sent to the Principal Commissioner of Income Tax - 1, Ahmedabad for approval.

12. Thereafter, the Principal Commissioner of Income Tax - 1, Ahmedabad approved the filing of Appeal before the Hon 'ble National Company Law Appellate Tribunal on 10.10.2025.

13. The Applicant states that on 18.02.2025, fact regarding the Principal Commissioner of Income Tax - 1, Ahmedabad approval to file an Appeal before the National Company Law Appellate Tribunal was intimated to the office of the then Senior Standing Counsel representing the Income Tax Department. Subsequently, an email of afore-stated approval was also sent to the then Senior Standing Counsel representing the Income Tax Department.

14. The Applicant states that thereafter the Applicant frequently tried to know the status regarding filing of Appeal before the Hon'ble National Company Law Appellate Tribunal from the office of the then Senior Standing Counsel representing the Income Tax Department.

15. The Applicant states that the then Senior Standing Counsel representing the Income Tax Department were sent various emails dated 21.05.2025, 18.06.2025, 18.07.2025, 24.08.2025, 30.10.2025 enquiring about the status of filing Appeal before the Hon'ble National Company Law Appellate Tribunal. Thereafter, the Applicant was informed that no progress could be made in the matter.

16. The Applicant states that the Appeal before the Hon'ble National Company Law Appellate Tribunal was not filed by the then Senior Standing Counsel representing the Income Tax Department for the reasons unknown to the Applicant.

17. The Applicant states that thereafter, appointment of the current Senior Standing Counsel was made to represent the Income Tax Department and the current Senior Standing Counsel was delegated the work of handling the matters pertaining to the Hon'ble National Company Law Tribunal, Ahmedabad and the Hon 'ble National Company Law Appellate Tribunal.

18. The Applicant states that the Applicant requested the then Senior Standing Counsel representing the Income Tax Department to transfer the file of the matter to the current Senior Standing Counsel

> *representing the Income Tax Department in the present captioned matter.*
>
> *19. Thereafter, the current Senior Standing Counsel representing the Income Tax Department was apprised of the matter and it took some time for the current standing counsel to collect all the documents pertaining to the matter and getting briefing of the matter from the concerned officer of the Income Tax Department. The ref ore, the captioned appeal could not be filed within the prescribed days from the date of pronouncement of order as prescribed under section 61 of the Insolvency and Bankruptcy Code, 2016 ("IBC").*

2. Now if one peruse the explanation given by the appellant, it would show the intimation about the impugned order was given to the Income Tax Department, as admitted by them, on *21/01/2025* itself. Thereafter the Ld. Sr. Standing Counsel sent a draft appeal memo on *08/02/2025* to the appellant's office, which was, though vetted on *10/02/2025*, but the approval came only on *10/10/2025*. There is no explanation of delay of eight months between the date of granting the approval and the date when the draft was vetted on *08/02/2025* by the department. Further, allegations are made against the then Sr. Standing Counsel representating Income Tax Department to whom various e-mails were sent but he never responded and ultimately the current Sr. Standing Counsel was delegated with the work of handling matters pertaining to the Ld. NCLT and NCLAT.

3. It is the submission of the Ld. Counsel for appellant the delay of *498* days was due to administrative reasons as stated above. Further, the appeal paper book contains an admission on part of the Income Tax Department that the impugned order was passed on *11/12/2024*; uploaded on NCLT

website on *11/12/2024* and the appellant received a letter dated *19/12/2024* intimating about the order of the NCLT of dated *11/12/2024* and it received the information from the Resolution Professional through a mail of dated *31/12/2024*. Thus, there are no substantial grounds shown for taking so much time in filing the appeal. In *Postmaster General and Ors. v. Living Media India Limited and Anr., (2012) 3 SCC 563*; the Hon'ble Supreme Court held under Paragraph *29* & *30* as follows:

> *29. 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 bona fide 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 the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.*
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> *30. 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. Accordingly, the appeals are liable to be dismissed on the ground of delay.*

4. Further in *Regional Provident Fund Commissioner-II v. Ms. Mamta Binani and Ors, Comp. App. (AT) (Ins) No 503 of 2026* decided on *21.05.2026* this Tribunal held :

> *20. Thus, though in the given circumstances explained by the present Applicant, denial of condonation of one days' delay in filing after the fifteenth day will be rather harsh on the Applicant, nevertheless this Tribunal is helpless as it is required to follow the*

express provisions of the statute. It is a well-accepted principle that inconvenience caused to any litigating party cannot be considered as a decisive or determinative factor while interpreting a statute. Section 61 of IBC empowers this Tribunal to admit an appeal even after the prescribed period of 30 days only upto another 15 days provided the Appellant gives 'sufficient cause' for not preferring the appeal within the 30 days prescribed period. This Tribunal has not been vested with any discretionary powers after the expiry of the 15 days extended period to admit an appeal. Clearly therefore it casts an obligation upon the court to dismiss any appeal which is presented before it beyond 30 + 15 days limitation. Any condonation of delay being allowed beyond 30 + 15 days would be in violation of the legislative intent and statutorily impermissible. This Tribunal cannot clothe itself with a jurisdiction which has not been vested upon it by the legislature. Thus, grant condonation of delay beyond the 15th day even on equitable consideration or on the ground of hardship or technical considerations will amount to jettisoning the intent of the legislature which is impermissible. Being a creature of the statute, this Tribunal is bound by the provisions of the statute and has to apply the statutory provision with all its rigour and vigour. The Tribunal has no choice before it but to apply the law as it stands which does not vest any power to condone the delay on equitable grounds after the expiry of 30 plus 15 days period. We are therefore unable to condone the additional one days further delay beyond the 30+15 days condonable period laid down under Section 61(2) of the IBC in the present case.

5. Further in *Regional Director v. Mayfair Hotels & Resorts Limited & Anr., Comp. App. (AT) No. 243 of 2025* decided on *28/11/2025*, the condonation was not allowed and the following was held :

4. The Appellant has heavily relied on Section 15(2) of the Limitation Act, 1963 to contend the time spent in obtaining the sanction from the Ministry of Corporate Affairs should be excluded in computing the limitation for filing the instant Appeal. Such reliance on Section 15(2) of the Limitation Act, 1963 appears to be misconceived in view of Section 433 of the Companies Act, 2013 which specifically provide the provisions of the Limitation Act, 1963 shall apply to the Companies Act, 2013 "as far as may be", as noted by the Hon'ble Supreme Court in Bengal Chemists (Supra).

Accordingly, Section 15(2) (supra) evidently cannot come to the aid of the appellant in a situation where there is a special provisions contained in Section 421(3) proviso, which mandates compliance with the prescribed timeline in preferring an appeal.

5. Admittedly, in Bengal Chemists (supra), the only grace period available is of further 45 days per Section 421(3) (supra) and within this period the sufficient causes of delay can be deliberated upon, and if we look into the reason of nine- month delay, then as held in Bengal Chemists (supra), Section 421 would be rendered otiose.

6. Considering the delay being beyond statutory period; we are not convinced with the reasons of delay, the same not being satisfactory, hence, **the application for condonation of delay stands dismissed**.

Accordingly the **memo of the appeal** stands **disposed of**.

I.A. No. 4573 of 2026 This appeal is filed against an impugned order dated *17/05/2024* passed by the Ld. NCLT, Ahmedabad Bench, Court-I in *I.A (Dis) No. 403/2023* in *CP(I.B.) No. 383 of 2019*. Though the impugned order was passed on *17/05/2024*, but the appeal is filed with a delay of *706* days. The reasons for the delay are mentioned in Paragraph *3* to *7* of the application, as under :

3. The impugned order was passed on 17.05.2024 and the certified copy was received by the Applicant Income Tax Department on 27.05.2024. The process of filing of an appeal before the Hon 'ble appellate tribunal was taken up in earnest, however, due to process delays in obtaining the approvals at various stages, the same could not culminate in timely filing of the appeal.

4. Subsequently, it was sent for a legal opinion of senior standing counsel on 04.06.2024 which was received to the office of the applicant on 13.06.2024. Accordingly, the Scruting report sent to Pr.CIT-1, Ahmedabad through proper channels recommending further appeal to Hon 'ble NCLAT. Afterward, on 20.06.2024, the said report *forwarded by Jt. CIT, Range-1, Bhavnagar to PCIT-1, Ahmedabad. Thereupon on 25.06.2024 final approval from PCIT-1, Ahmedabad, was received and forwarded to standing counsel for filing of the captioned matter.*

5. It is submitted that the incumbent could only take up the matter on 30.09.2024, due to the former officer being on leave and the charge of Circle- I Bhavnagar was been given to ACIT Ahmedabad and thereafter the former officer being transferred to Valsad.

6. Thereafter, the officer of the Applicant posted in Circle- 1, Bhavnagar in the month of September, 2024 and regular functioning of the department was commenced. It is humbly submitted that the appellant was also engaged in various time barring (limitation) matters simultaneously which have limitation, in view of the amended provisions of the Finance Act 2024. Since the appeal in the matter could be filed after taking independent legal advice and necessary administrative approvals including that from the standing counsel which was received on October, 2024.

7. It is stated that the standing counsel could not file the appeal thereafter for reasons unknown to the Applicant. Thereafter, there is a change of the standing counsel to represent the Income Tax Department before the Hon'ble NCLT and Hon'ble NCLAT and the current standing counsel took charge in the month of October 2025. Thereafter, the current standing counsel was apprised of the matter and it took some time for the current standing counsel to collect all the documents pertaining to the matter and getting briefing of the matter from the concerned officer of the Income Tax Department. Therefore, the captioned appeal could not be filed within the prescribed days from the date of pronouncement of order as prescribed under section 61 of the Insolvency and Bankruptcy Code, 2016 ("IBC").

2. Bare perusal of the application on record shows the impugned order was though passed on *17/05/2024* and the certified copy was received by the department on 27/05/2024, yet the appeal was not filed in time. As per the application, the legal opinion was obtained by the department on *04/06/2024*, which was received in the office of the appellant on

13/06/2024, and thereafter, the scrutiny happened through proper channel and recommendations were sought for filing the appeal and the final approval came on *25/06/2024*. Thereafter the concerned officer was on leave and later transferred and since the officials were engaged in the time barring limitation matters, the appeal could not be filed in time. The Standing Counsel further stated for reasons unknown to the department, the appeal could not be filed in time.

3. The notice has not been issued in the present matter. We have heard the submissions made on behalf of the department. In *Postmaster General and Ors. v. Living Media India Limited and Anr., (2012) 3 SCC 563* decided on *24/02/2012*; *Regional Provident Fund Commissioner-II v. Ms. Mamta Binani and Ors, Comp. App. (AT) (Ins) No 503 of 2026* decided on *21.05.2026*; in *Regional Director v. Mayfair Hotels & Resorts Limited & Anr., Comp. App. (AT) No. 243 of 2025* judgement dated *28/11/2025*, the condonation was not allowed in similar circumstances.

4. Thus, we are not inclined to condone the delay of *706* days, especially considering the fact the Corporate Debtor has since been liquidated and there are no assets left for further disposal and the Company has since been dissolved. The appeal thus is dismissed.

Pending applications No. *4468. 4571, 4572, 4469 & 4573 of 2026* are also **disposed of**.

[Justice Yogesh Khanna]
The Officiating Chairperson

[Ajai Das Mehrotra]
Member (Technical)

Prerana/md