NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Comp. App. (AT) (Ins) No. 1047 of 2026 &
I.A. No. 4126 of 2026

IN THE MATTER OF:

Directorate of Enforcement **...Appellant(s)**

Versus

Aegis Resolution Services Pvt. Ltd. Resolution Professional of Kute Sons Fresh Dairy Pvt. Ltd. & Ors. **...Respondent(s)**

Present:

For Applicant : **Mr. Prashant Mishra, Advocate**

For Respondents : **Mr. Ankit Virmani, Mr. Himanshu Vidhani, Mr. Hrithik Sharma, Shloka Dikshit, Advocates for R-3.**

Mr. Ramchandra Madan, Mr. Himanshu Yadav, Mr. Tushar Nigam, Advocates for R-4.

O R D E R
(Hybrid Mode)

26.10.2026 This appeal is filed against an impugned order dated *06/04/2026*, passed by the Ld. NCLT, Mumbai Bench *in I.A. (IBC)(Plan) No. 10 of 2026* in *CP (IB) No. 246 of 2025*.

2. At the outset, the *30 day's* limitation, prescribed under *Section 61(2)* proviso of IBC had expired on *06/05/2026* and this appeal was filed with a delay of *09* days, i.e., on *14/05/2026*. However, it was not accompanied with an application for condonation of delay, thus rendering the appeal defective. The maximum *15* days extendable period allowed under Section *61(2)* proviso, expired on *21/05/2026,* thus bringing the timeline to the absolute *45* days statutory cap from the date of the original order.

3. On *26/05/2026*, the appellant however, moved an application for condonation of delay, i.e. on *58th* day from the date of the impugned order and after the absolute statutory limitation of *45 days* had completely elapsed. Question is *if* this appeal can be heard or has to be dismissed on limitation.

4. In *Ashdan properties (P) Ltd. v. DSK Global Education & Research (P) Ltd. 2025 SCC OnLine SC 1682*, the Hon'ble Supreme Court has held as under :

> *"12. Viewed thus, the fact that respondent No. 1 casually e-filed an appeal on July 25, 2023, with neither an application for condonation of delay nor an application seeking exemption from filing a certified copy of the impugned order, rendered its appeal defective. Admittedly, it was only on August 25, 2023 that respondent No. 1 filed an application seeking permission to file the appeal and an application for condonation of delay was filed much later, on September 22, 2023. Presumably, it was at this time that a certified copy of the impugned order was filed without even seeking exemption or extension of time to do so. These aspects ought to have been considered by the National Company Law Appellate Tribunal as the statute peremptorily requires proper institution of an appeal in conformity with all the prescribed norms and it was incumbent upon the National Company Law Appellate Tribunal to examine and verify as to whether respondent No. 1's appeal was in due compliance with all such norms. More so, when the appellant herein had specifically raised the issue that such appeal was barred by limitation.*
> *The National Company Law Appellate Tribunal erred in completely brushing aside this crucial aspect which went to the very root of its appellate jurisdiction.*
>
> *13. Thus, the impugned judgment delivered on merits is essentially a superstructure erected on an illusory foundation and cannot, therefore, be sustained. On this short ground, this appeal deserves to be and is, accordingly, allowed setting aside the judgment dated July 1, 2024 passed by the National Company Law Appellate Tribunal,*

Principal Bench, New Delhi, in Company Appeal (AT) (Insolvency) No. 1308 of 2023.

Pending applications, if any, shall stand disposed of."

5. In *ASREC (India) Ltd. v. S.A. Prem Kumar; Comp. App. (AT) (CH) (Ins) No. 90/2026*, this Tribunal has held as under :

"*14. Though, the issue involved therein, which had been adjudicated by the Hon'ble Apex Court, in its judgment rendered on 04.04.2025, may not directly relate to the issue under consideration in the instant company appeal, the aforesaid judgement very categorically states that appeals filed under section 61(2) of I&B Code will have to strictly conform to the provisions of Rule 22 of the NCLAT Rules, 2016. In the instant case, the condone delay application has allegedly been filed without payment of requisite fees which has been paid later and hence the said application as on 14.12.2025 cannot be held to be a valid application and it will be treated as a valid application only with effect from 02.03.2026 when the fees have been paid as per the documents supplied by the appellant himself.*

16. To summarize, in Company Appeal (AT) (CH) (Ins) No.90/2026, the impugned order happens to be of 31.10.2025, the company appeal was filed on 14.12.2025 and was not accompanied by a validly executed condone delay application as on 14.12.2025, because the fees for the same was remitted only on 02.03.2026. Since, the condone delay application came into being only 02.03.2026, it will have to be treated to have been filed beyond the limitation period and as a consequence, has to be rejected and the company appeal will have to be treated as barred by limitation."

6. Further in *M/s LIC Housing Finance Ltd. v. Mr. Ramakrishnan Sadasivan; Comp. App. (AT) (CH) (Ins) No. 658/2025*, this Tribunal held as under :-

"9. This argument of the Learned Counsel for the Appellant apparently seems to be contrary to the very intention of the proviso to sub-section 2 of Section 61, because there is no such exception has been carved out under the Code and NCLAT Rules. In fact, in the absence of there being any delay condonation application being

filed, the Appeal preferred on 15.12.2025, cannot be treated as a valid Appeal in the eyes of law. The Appeal could have been treated to be validly instituted and placed for judicious consideration only when the supporting delay condonation application was filed, which in the instant case would be 20.12.2025 and not 15.12.2025, as argued by the Counsel for the Appellant. And in that eventuality, if we determine the delay knowing the fact that, the Appellant was a contestant to the proceedings, and he had knowledge of the proceedings and order, he had the certified copy of the order issued to him on 15.12.2025, The delay herein would be calculated from the date of the order itself, i.e. 28.10.2025 and if that be so, the period of 30 days would be expiring on 27.11.2025, after excluding the date of passing of the order and if we grant a benefit of the condonable period under the proviso of another 15 days, the same would also be expiring on 12.12.2025. In that eventuality, since the Appeal having been filed on 15.12.2025, is beyond the period as prescribed under the proviso to Section 61 of I&B Code."

This judgement was upheld by the Hon'ble Supreme Court in *Civil Appeal No. 48783/2026* on *21/09/2026.*

7. Considering the law above, since there was no application filed for condonation of delay in filing the appeal, within the statutory *45* days per Section 61(2), the appeal shall be treated as *barred by limitation* and is accordingly **dismissed**.

Pending applications, viz., *I.A. Nos. 4125, 4126 & 4127 of 2026* are also **dismissed**.

[Justice Yogesh Khanna]
The Officiating Chairperson

[Barun Mitra]
Member (Technical)

Prerana/md