

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

I.A. No. 6569, 6639 & 6641 of 2025 in
Company Appeal (AT) (Ins.) No. 1687 of 2025

(Arising against the impugned order dated 03.02.2025 passed by the National Company Law Tribunal, Indore Bench in TP No. 157 of 2019 in CP (IB) No. 535 of 2019].

IN THE MATTER OF:

OM LOGISTICS LIMITED

CIN: U63002DL1999PLC101942

Having its registered address at:

130, Transport Centre, Ring Road,
Punjab Bagh, New Delhi- 110035

...Appellant

Versus

BAKUL CASTING PRIVATE LIMITED,

CIN: U27310MP1999PTC013323

Having its registered address at:

2B, Industrial Area, Ujjain Road,
Dewas, Madhya Pradesh- 45500

...Respondent

Present:

**For Appellant: Mr. Ashutosh Kumar Shukla, Mr. Subhash Sharma,
Mr. Manish Kumar, Advocates.**

For Respondent: PCS Pratik Tripathi.

O R D E R

(06th May, 2026)

INDEVAR PANDEY, MEMBER (T)

1. The present appeal has arisen from the order dated 03.02.2025 passed by the Learned National Company Law Tribunal, Indore Bench (Adjudicating Authority) in TP No. 157 of 2019 [CP(IB) No. 535 of 2019], whereby the

application filed under Section 9 of the Insolvency and Bankruptcy Code, 2016 (herein after referred as 'Code') by **Om Logistics Limited- Appellant/ Operational Creditor**, against **Bakul Casting Private Limited- Respondent/Corporate Debtor**, was dismissed on the ground that the Applicant had failed to prove the existence of operational debt and the occurrence of default. The Appellant had sought initiation of Corporate Insolvency Resolution Process against the Respondent on account of unpaid transportation and logistics charges arising from long-standing commercial transactions between the parties.

2. The Appellant submits that the impugned order failed to consider that the operational debt which was duly acknowledged by Respondent through email communications dated 06.12.2018 and pursuant to which a sum of Rs.60,000/- was processed. No reply was ever given by Respondent to the statutory demand notice dated 07.05.2019 issued under Section 8 of the IBC, and that all invoices had been duly received and acknowledged by the Respondent/Corporate Debtor without any pre-existing dispute. Aggrieved by the rejection of its Section 9 petition despite alleging a clear operational debt of Rs.10,52,127/- comprising principal amount of Rs.7,64,192/- and interest of Rs.2,87,935/-, Appellant has preferred the present appeal under Section 61 of the Code seeking setting aside of the impugned order and initiation of CIRP against Respondent.

3. The present appeal has been filed with a delay of 13 days in filing of the appeal and a re-filing delay of 198 days for which the Appellant filed an I.A. 6569 of 2025. On 09.12.2025 this Tribunal passed the following order:-

ORDER
(Hybrid Mode)

09.12.2025: I.A. No. 6569/2025

1. This is an application praying for condonation of 198 days delay in refiling of the appeal.
2. Learned counsel for the appellant prays for and is allowed two weeks' time to file additional affidavit in support of the refiling delay condonation application.

List this application along with the appeal on **12th January, 2026**.

4. On 12.01.2026, notice was issued on refiling delay condonation application to the respondent. After completion of pleadings this Tribunal passed the following order on 08.04.2026:-

ORDER
(Hybrid Mode)

08.04.2026: I.A. No. 6569, 6639, 6641 of 2025 Heard Ld. Counsel for Appellant and Ld. Counsel appearing for Respondent No. 1 and Shri Pratik Tripathi, PCS for the Respondent.

Order reserved in the Application for condonation of delay in refiling the Appeal, condonation of delay in filing the Appeal as well as the Application for Exemption from filing the certified copy of the impugned order.

Facts of the Case

5. The relevant facts, limited to those necessary for deciding the issue of limitation and delay, are set out chronologically as under:

- i. Om Logistics Limited/Appellant, a company engaged in providing transportation and logistics services, had been rendering such services to Bakul Casting Private Limited/Respondent, a

manufacturing company dealing in steel and allied products, in the course of their commercial dealings.

- ii. On account of alleged non-payment of dues arising from such services, Appellant, claiming to be an Operational Creditor, filed an application under Section 9 of the Insolvency and Bankruptcy Code, 2016 seeking initiation of Corporate Insolvency Resolution Process against Respondent for an operational debt of Rs.10,52,127/-.
- iii. The said application was registered as CP(IB) No. 535 of 2019 [TP No. 157 of 2019] before the Learned Adjudicating Authority, which, upon consideration of the material on record, vide impugned order dated 03.02.2025, dismissed the application holding that the Appellant had failed to establish the existence of an undisputed operational debt and default.
- iv. The impugned order was pronounced on 03.02.2025, thereby triggering the statutory limitation period for filing an appeal under Section 61 of the IBC. As per the statutory scheme, the Appellant was required to file the appeal within 30 days, i.e., on or before 05.03.2025, with a further condonable period of 15 days, extending the outer limit to approximately 20.03.2025.
- v. The Appellant filed the present appeal on 18.03.2025, i.e., on the 43rd day from the date of the impugned order, which falls within the extended condonable period of 15 days. Along with the appeal, an I.A. No. 6639 of 2025 was filed seeking condonation of delay of 13 days in filing, attributing the delay to late receipt of the copy of the impugned order from the counsel of the Appellant.

- vi. However, upon filing, the appeal was found to be defective by the Registry. The defects were notified to the Appellant, requiring rectification before the appeal could be treated as properly instituted. Instead of curing these defects within a reasonable time, the Appellant took an extended period to comply. The Appellant filed I.A. No. 6569 of 2025 seeking condonation of 198 days delay in re-filing.
- vii. The Appellant has stated that its Authorized Signatory, who was the custodian of records, remained unavailable till 13.04.2025, which contributed to the initial delay in curing the defects. Thereafter, according to the Appellant, the matter underwent multiple rounds of scrutiny by the Registry, during which fresh defects were pointed out from time to time.
- viii. It is the Appellant's case that between March 2025 and October 2025, the appeal went through more than 15 rounds of scrutiny and re-filing, with defects being raised and removed in stages. Ultimately, the defects were cured and the appeal was re-filed after a delay of 198 days from the initial filing.
- ix. Thus, the essential factual timeline relevant for deciding the present appeal is that the impugned order was passed on 03.02.2025, the appeal was filed on 18.03.2025 within the condonable period, but remained defective and was ultimately re-filed only after a substantial delay of 198 days, which is the subject matter of the present application for condonation.

- x. The Respondent has contested the aforesaid delay in refiling and has sought dismissal of the appeal at the threshold on account of delay in refiling by the Appellant.

Submissions of the Appellant

6. It is submitted by the Ld. Counsel for the Appellant, that the present Application has been filed seeking condonation of delay in re-filing of the appeal filed vide IA No. 6569 of 2025. The Application is bona fide and necessitated due to circumstances beyond the control of the Appellant.

7. Ld. counsel submits that there is a delay of 198 days in re-filing, which occurred as the Authorized Signatory, who is also the custodian of necessary documents for removal of defects, was out of station due to personal exigencies and returned only on 13.04.2025. Consequently, the defects could not be cured earlier. The delay is neither intentional nor deliberate but due to genuine and unavoidable reasons.

8. It is submitted that the appeal was initially filed on 18.03.2025, and upon scrutiny, the Registry returned the appeal pointing out various defects. Thereafter, the appeal and connected interlocutory applications underwent multiple rounds of scrutiny, and defect sheets were issued from time to time. The counsel has submitted a detailed date-wise table has been provided in the affidavit which has been extracted below:-

S. No.	Date of Defect Report/ Scrutiny	Proceeding/ Filing	Remarks showing diligence
1.	24.03.2025	Main Appeal	First defect sheet issued after initial filing
2.	21.04.2025	Main Appeal	Defects pointed out again after curing earlier defects

3.	21.04.2025	I.A.	Separate defects for interlocutory application
4.	01.05.2025	I.A.	Defects cured and rescrutinised
5.	07.05.2025	Main Appeal	Further objections raised
6.	14.05.2025	Main Appeal	Registry raised fresh objections
7.	14.05.2025	I.A.	Delay-related correction sought
8.	27.05.2025	Main Appeal	Defects again reported
9.	08.07.2025	Main Appeal	Continued scrutiny after re-filing
10.	18.08.2025	Main Appeal	Defects pointed out
11.	18.08.2025	I.A.	Corresponding IA defects
12.	29.08.2025	Main Appeal	Re-scrutiny post compliance
13.	02.09.2025	Main Appeal	Minor defects at re-filing stage
14.	11.09.2025	Main Appeal	Residual objections
15.	15.09.2025	I.A. (multiple)	Defects in IAs and pagination
16.	20.09.2025	Main Appeal	Further scrutiny
17.	24.09.2025	Main Appeal	Undertaking related defect
18.	24.09.2025	I.A.	Pagination / index related defect
19.	16.10.2025	I.A.	Final scrutiny
20.	31.10.2025	I.A.	Documents marked DEFECT-FREE
21.	04.11.2025	Main Appeal	Appeal marked DEFECT-FREE
22.	09.12.2025	Appeal Registered	Appeal numbered and listed

The record reflects that defect sheets were issued on multiple dates including 24.03.2025, 21.04.2025, 01.05.2025, 07.05.2025, 14.05.2025, 27.05.2025, 08.07.2025, 18.08.2025, 29.08.2025, 02.09.2025, 11.09.2025, 15.09.2025, 20.09.2025, 24.09.2025 and 16.10.2025, culminating in the appeal being marked defect-free on 04.11.2025 and the IAs on 31.10.2025, and thereafter registered on 09.12.2025.

9. It is submitted that the said date-wise table unequivocally establishes that the Appellant was continuously pursuing the matter and diligently

removing defects as and when pointed out by the Registry. Each defect report necessarily presupposes a prior re-filing after curing earlier defects, thereby demonstrating that the appeal was repeatedly re-filed and never remained unattended or dormant at any stage.

10. It is further submitted by the Ld. Counsel that the defect sheets submitted with the additional-affidavit reveal the nature of objections raised by the Registry, which were largely technical and procedural in nature, such as defects in pagination, indexing, filing of certified copy or exemption application, uploading of legible documents, proper bookmarking, payment receipts, and compliance with filing formats. The counsel submits that these were not substantive defects, but curable procedural irregularities, which required repeated compliance due to evolving and fresh objections at each stage of scrutiny.

11. Ld. Counsel further submits that the delay of 198 days is not a single continuous delay, but is the cumulative result of multiple cycles of scrutiny, re-filing, and fresh objections raised by the Registry over a prolonged period. It is emphasized that the Appellant acted promptly after each defect report and undertook necessary corrective steps, and therefore the delay is purely procedural and bona fide.

12. It is also submitted that the appeal was never lying dormant and was actively pursued throughout. Even during periods where minor delay occurred, such delay was occasioned due to the volume and nature of objections and the time required to cure technical defects, including compliance with formatting, documentation, and procedural requirements.

13. The counsel for the Appellant submits that there was no intention whatsoever to delay the proceedings, nor has the Appellant derived any benefit from such delay. On the contrary, refusal to condone the delay would cause grave prejudice to the Appellant by depriving it of adjudication on merits, whereas no prejudice would be caused to the Respondent if the delay is condoned.

14. He further submits that all defects have now been removed to the satisfaction of the Registry, and the appeal stands in order and has already been registered. This itself demonstrates that the Appellant has complied with all procedural requirements and has acted with due diligence.

15. In view of the above, the counsel for the Appellant submits that the delay in re-filing deserves to be condoned in the interest of justice, equity, and fair play, particularly when the matter involves substantial questions requiring adjudication on merits rather than dismissal on technical grounds. He prays for condonation the delay of 198 days in re-filing of the appeal in the interest of justice.

Submissions of The Respondent

16. PCS Pratik Tripathi appearing for the Respondent submitted that the present Application for condonation of delay in re-filing is liable to be dismissed at the threshold as the Appeal itself is barred by limitation and suffers from serious defects. The conduct of the Appellant clearly demonstrates lack of diligence, negligence, and an afterthought attempt to revive a time-barred remedy. The Appellant has failed to show any bona fide

or sufficient cause for condonation of delay and is merely attempting to misuse the process of law.

17. It is submitted that the impugned order was passed on 03.02.2025 and the statutory limitation period expired on 05.03.2025. The Appeal was admittedly filed on 18.03.2025 with a delay of 13 days, thus the main appeal was filed only on the 43rd day from the date of pronouncement.

18. He further submits that the Appellant has not even complied with the mandatory procedural requirement of filing a certified copy of the impugned order along with the Appeal. No application seeking exemption from filing the certified copy has been filed, nor has any explanation been provided for such omission. In the absence of compliance with Rule 22(2) of the NCLAT Rules, 2016, the Appeal itself is defective and not maintainable in the eyes of law.

19. It is submitted that the Appellant has deliberately suppressed material facts from this Hon'ble Tribunal. The Appellant failed to disclose that a Civil Suit (Commercial) No. 385 of 2025 is already pending before the learned District Judge, Tis Hazari Courts, Delhi, involving the same subject matter. Whereas in his appeal he has categorically stated at point no. 10 that no writ petition or suit regarding the matter in respect of which this appeal is preferred has been filed before any other authority or is pending before any of them. The suppression of such a crucial fact demonstrates lack of bona fides and disentitles the Appellant from any equitable relief.

20. It is submitted that the explanation furnished by the Appellant for delay in re-filing is wholly vague, generic, and insufficient. The Appellant has sought

to justify a delay of 198 days merely on the ground that its Authorized Signatory was unavailable until 13.04.2025. Such a bald and routine explanation does not constitute “sufficient cause” within the meaning of law and fails to justify the prolonged inaction.

21. The Respondent further submitted that the Appellant has utterly failed to demonstrate any bona fide intention or due diligence in prosecuting the matter. The delay is clearly attributable to gross negligence and inaction, and cannot be condoned on the ground of personal inconvenience.

22. It is submitted that the record clearly reveals persistent negligence on the part of the Appellant in curing defects pointed out by the Registry. The same defects were repeatedly notified and remained uncured over multiple dates, including 24.03.2025, 21.04.2025, 05.05.2025, 15.05.2025, 24.05.2025, 29.08.2025, 02.09.2025, 15.09.2025, and even as late as 16.10.2025.

23. The Respondent submits that such repeated lapses and continued failure to remove defects clearly establish gross negligence and a casual approach towards judicial proceedings. These circumstances, by no stretch of imagination, can be treated as “sufficient cause” for condonation of delay.

24. The Respondent places further reliance upon the judgment of the Hon’ble Supreme Court in “*Basawaraj & Anr. v. Special Land Acquisition Officer*, (2013) 14 SCC 81”, wherein it has been categorically held that the party seeking condonation must establish that it was prevented by sufficient cause from approaching the Court and that negligence or lack of bona fides cannot be condoned.

25. Respondent further submits that the Appellant has remained absent on several occasions before the Hon'ble NCLT, including hearings dated 19.06.2020, 23.10.2020, 04.03.2021, 05.07.2021, 26.07.2021, 25.04.2024, and 06.01.2023. This clearly demonstrates a consistent pattern of non-prosecution and lack of seriousness on the part of the Appellant.

26. It is further submitted on behalf of Respondent that the proceedings under Section 9 of the IBC were prolonged from 2019 to 2025 and ultimately rejected by the Hon'ble NCLT. The Appellant's conduct throughout has been dilatory and negligent. He therefore prays that this Appellate Tribunal may be pleased to dismiss I.A. No. 6569 of 2025 seeking condonation of delay; and consequently, dismiss the Appeal as barred by limitation.

Analysis & Findings

27. We have heard the parties and gone through the records of the case. The only issue that arises for our consideration is whether the delay of 198 days in re-filing the appeal has been properly explained, and whether such delay deserves to be condoned in law.

28. At the outset, we note that limitation under the Insolvency and Bankruptcy Code is strict and time-bound. An appeal is required to be filed within 30 days, with a further grace period of 15 days, if sufficient cause is shown. In the present case, the impugned order was passed on 03.02.2025, and the 30 days limitation period expired on 05.03.2025. The appeal was filed on 18.03.2025, i.e., on the 43rd day. On scrutiny by the Registry on 24.03.2025 the appeal was found to be defective and Appellant was accordingly informed. The Appellant took 198 days to re-file the appeal after

removing objections. Thus, although the initial filing was within the extended limitation period, there was a substantial and prolonged delay in completing the filing process.

29. The Appellant has argued that the delay in re-filing should be viewed leniently and not as strictly as delay in initial filing. It is stated that the authorized signatory was unavailable till 13.04.2025 and that thereafter multiple rounds of scrutiny by the Registry led to delay. It is also argued that more than 15 rounds of objections were raised and cleared over time, and therefore the delay was procedural and not intentional.

30. On the other hand, the Respondent has opposed the condonation of delay and submitted that the delay is excessive and not properly explained. It is argued that the reasons given by the Appellant are vague and inconsistent, and that repeated failure to remove defects shows negligence rather than diligence. It is further submitted that mere personal inconvenience or procedural issues cannot be treated as “sufficient cause”, especially when the delay is as long as 198 days.

31. We note that the Appellant has ascribed the delay in re-filing to personal exigency of the authorised signatory and to the procedural delay in the Registry in the process of clearing the defects. The first cause cited by Appellant for delay relating to the “personal exigency” of the authorized signatory is too general and unsupported by any material. We find the explanation given by the Appellant, that the delay happened because the Authorized Signatory was unavailable, is not at all convincing. The reasons for non-availability of authorised signatory have not been explained at all in the application. The Appellant is a company, and a company does not depend

on just one person for performing a particular activity. It can act through its directors, officers, or any other authorized representative. If one person was unavailable, the company could have easily appointed or authorized someone else to handle the matter. In normal business and legal practice, companies act through multiple persons. Therefore, this reason does not justify such a long delay and instead shows lack of proper care and diligence on the part of the Appellant.

32. The second explanation for delay has been ascribed to the procedural delays in the Registry. We note from the records submitted by appellant itself in its additional-affidavit that the Registry has been repeatedly pointing out the same delays on repeated occasions but the same were not cured by the Appellant in time. On 14.05.2025 the following two defects were pointed out by the Registry:

- i. PDF of IAs should be removed from the main appeal of PDF and uploaded separately, link with the main appeal, and pay fees for IAs accordingly. (Note-don't remove IAs in the INDEX)..*
- ii. The original certified copy of the Impugned Order has not been filed, Either file the Impugned order stamped (paid/unpaid) coloured copy of the Impugned order or file an IA (for exemption from filing a certified copy of the Impugned order)*

These very same defects were again intimated to Appellant on 27.05.2025; 08.07.2025; 18.08.2025; 29.08.2025 and 02.09.2025. It has taken more than three and half months for the Appellant to clear these two defects. Such conduct of Appellant clearly reflects lack of seriousness and due diligence on the part of the Appellant.

33. It is also pertinent to note that the conduct of the Appellant before the Adjudicating Authority reflects lack of diligence. From the record, it is evident that despite multiple opportunities granted by the NCLT, the Appellant failed to effectively prosecute its application. Hearings dated 19.06.2020, 23.10.2020, 04.03.2021, 05.07.2021 and 26.07.2021 show that the matter was repeatedly listed, yet Appellant remained absent. Even thereafter, on subsequent dates including 06.01.2023 and 25.04.2024, the proceedings continued without any meaningful progress attributable to the Appellant. This pattern indicates that the Appellant did not appear with due seriousness despite repeated listings and opportunities, thereby contributing to prolonged pendency before the Adjudicating Authority. Such conduct, when seen along with the delay in filing and re-filing the present appeal, reflects a consistent lack of diligence in pursuing the remedy.

34. The records of the case clearly show that the Appellant was not at all serious in getting the defects cleared by Registry, even after the same have been repeatedly pointed out by the Registry on consecutive occasions over a period of time. We are aware that courts should show some leniency in cases of delay in re-filing, however, such leniency cannot extend to cases, where there is a long and continuous delay without proper justification. In the present case, the delay is not of a few days but of 198 days, which is significant. We are also cognizant of the fact that the IBC is a time-bound law, allowing such long delays without proper justification would defeat the objective of speedy resolution under the Code and dilute the discipline required in insolvency proceedings. In this case the delay in re-filing has been

caused due to laxity on the part of Appellant for which he has tried to blame the procedures in Registry.

35. It is a settled principle of law that delay can be condoned only when sufficient cause is shown. The Hon'ble Supreme Court in "*Basawaraj & Anr. v. Special Land Acquisition Officer*, (2013) 14 SCC 81", has clearly held that the expression "sufficient cause" must be construed strictly and that delay caused by negligence, inaction or lack of bona fides cannot be condoned merely on equitable grounds. In the present case, the conduct of the Appellant does not satisfy this standard.

36. Accordingly, we hold that the delay of 198 days in re-filing has not been sufficiently explained and does not deserve to be condoned. The application for condonation of delay is therefore rejected, and as a result, the appeal is dismissed. Pending IAs are closed. No order as to costs.

**[Justice Ashok Bhushan]
Chairperson**

**[Indevar Pandey]
Member (Technical)**

Place: New Delhi

*Harleen/
Pragya (LRA)*