

IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

[Through Physical hearing/VC Mode (Hybrid)]

ITEM No.18

I.A No. 320/20 & 573/24

C.P (IB) No.357/BB/2019

IN THE MATTER OF:

M/s Allahabad Bank

... Petitioner

Vs

M/s Southern Batteries Private Limited

... Respondent

Petition under Section 7 of I & B Code, 2016

Order delivered on: 01.04.2026

CORAM:

**SHRI. SUNIL KUMAR AGGARWAL
HON'BLE MEMBER (JUDICIAL)**

**SHRI. RADHAKRISHNA SREEPADA
HON'BLE MEMBER (TECHNICAL)**

PRESENT:

For the Liquidator: Ms. Darshini

ORDER

1. Heard the Ld. Counsel for the Liquidator.
2. **I.A No.573/2024: I.A is dismissed vide Separate order.**
3. **I.A No. 320/2020:** Pleadings are complete. They are adjudicating EPFO appeal before the Hon'ble NCLAT, therefore seeks adjournment to report on the same.
4. List the case on **23.06.2026.**

-Sd-

**RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)**

-Sd-

**SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)**

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IN THE NATIONAL COMPANY LAW TRIBUNAL, BENGALURU BENCH

*(Exercising powers of Adjudicating Authority under
The Insolvency and Bankruptcy Code, 2016)*

I.A. No. 573 of 2024

in

C.P. (IB) No. 357/BB/2019

(Application under Section 42 the IBC, 2016)

IN THE MATTER OF

ICP (India) Private Limited

No. 223-A, 4th Cross Road, 3rd Phase,
Bommasandra Industrial Area,
Hosur Road, Bengaluru – 560099

...Applicant / Operational Creditor

Versus

Mr. Kanekal Chandrasekhar,

Liquidator of Southern Batteries Pvt. Ltd.
Reg. No. IBBI/IPA-002/IP-N00642/2018-19/11946
No. 6, “Shree”, 9th Cross, Bhuvaneshwari Nagar,
Hebbal Kempapura, H.A. Farm Post,
Bengaluru – 560024.

...Respondent / Liquidator

IN THE MATTER OF -

Allahabad Bank

...Petitioner/ Financial Creditor

AND

M/s. Southern Batteries Private Limited

...Respondent/ Corporate Debtor

Order delivered on: 01.04.2026

Coram:

1. Shri Sunil Kumar Aggarwal, Hon’ble Member (Judicial)
2. Shri Radhakrishna Sreepada, Hon’ble Member (Technical)

Parties/Counsels Present:

For the Liquidator: Ms. Darshini

O R D E R

I.A. No. 573 of 2024 in CP (IB) No. 357 of 2019

IBC Laws | www.ibclaw.in

1. This Application has been filed by ICP (India) Private Limited (hereinafter referred to as the “Applicant”) on 19.07.2024, under Section 42 of the Insolvency and Bankruptcy Code, 2016 (hereinafter referred to as the “Code”), seeking to set aside the email dated 28.06.2024 issued by the Liquidator rejecting the claim of the Applicant, to condone the delay in submission of the claim before the Liquidator, and to direct the Respondent to admit the claim of the Applicant and make payment in accordance with law.
2. Brief relevant facts of the Application are as follows: -
 - i. The Corporate Insolvency Resolution Process (“CIRP”) against the Corporate Debtor, Southern Batteries Private Limited, was initiated on 19.02.2020 on a petition filed under Section 7 of the Code by Allahabad Bank in C.P. (IB) No. 357/BB/2019. Pursuant to failure of the CIRP, the Corporate Debtor (CD) was ordered to be liquidated and the present Respondent was appointed as the Liquidator to conduct the liquidation process in accordance with the provisions of the Code and the IBBI (Liquidation Process) Regulations, 2016.
 - ii. The Applicant is an Operational Creditor engaged in the manufacture and supply of fibre glass products including FRP radome covers, gratings and related items. It is the case of the Applicant that the CD had placed purchase orders for supply of such materials, pursuant to which the Applicant supplied goods and raised invoices. According to the Applicant, while part payments were made, an amount of approximately **Rs.22,96,814/-** remained outstanding towards unpaid operational dues.
 - iii. It is submitted that despite issuance of reminders and a legal notice dated 22.12.2018, the CD failed to clear the outstanding dues. Consequently, the Applicant instituted a commercial suit for recovery before the competent Commercial Court at Bengaluru, which culminated in a judgment and decree dated 01.12.2021 directing the CD to pay the decretal amount along with interest and costs.

- iv. Thereafter, the Applicant initiated execution proceedings for enforcement of the decree. During the pendency of such proceedings, the Applicant claims to have learnt that the CD was undergoing liquidation and that the Respondent had been appointed as Liquidator by this Adjudicating Authority.
 - v. Upon becoming aware of the liquidation process, the Applicant submitted its claim in Form 'C' on 09.05.2024 before the Liquidator along with supporting documents. However, the Respondent, vide email dated 28.06.2024, rejected the claim on the ground that the claim was submitted belatedly beyond the timelines prescribed under the Liquidation Process Regulations and that the liquidation proceeds had already been distributed in accordance with Section 53 of the Code.
 - vi. Aggrieved by the rejection of its claim and seeking condonation of delay in submission of the claim before the Liquidator, the Applicant has filed the present Application under Section 42 of the Code
3. The Respondent filed its reply, on 21.10.2024 stating as follows:
- i. The Application is barred by limitation both in respect of the claim filed before the Liquidator as well as the appeal preferred under Section 42 of the Code. The Applicant submitted its claim in Form C only on 09.05.2024 with a delay of about 398 days from the last date prescribed under the Liquidation Process Regulations, and the Liquidator rejected the same vide email dated 28.06.2024 on the ground of inordinate delay and advanced stage of liquidation.
 - ii. The Application under Section 42 itself has been filed beyond the statutory period of fourteen days. The rejection was communicated on 28.06.2024 whereas the Application has been filed on 19.07.2024. It is contended that the Applicant has neither filed a separate application seeking condonation of delay nor furnished any sufficient cause for filing the appeal beyond the prescribed timeline. It is therefore contended that the Application is liable to be dismissed on this ground alone.

- iii. The claim itself is hopelessly time-barred under the IBBI (Liquidation Process) Regulations, 2016. The CIRP of the CD was publicly announced on 26.02.2020 in widely circulated English and vernacular newspapers, fixing 09.03.2020 as the last date for submission of claims. Despite the alleged dues arising prior to initiation of CIRP, the Applicant did not submit any claim during CIRP.
- iv. Upon commencement of liquidation vide order dated 02.03.2023, the Liquidator had issued a public announcement on 09.03.2023 in accordance with Regulation 12 of the Liquidation Regulations, fixing 08.04.2023 as the last date for submission of claims. The said public announcements were published in both English and Kannada newspapers. The Applicant, despite being based in Bengaluru, failed to submit any claim within the prescribed timelines. The Liquidator also issued several e-auction notices during liquidation which were in the public domain.
- v. The Applicant's plea of ignorance of CIRP and liquidation is untenable in view of the statutory public announcements and widespread publicity of the liquidation proceedings. It is contended that once statutory requirements of public notice are complied with, the Applicant cannot plead lack of knowledge to justify belated submission of claims.
- vi. The commercial suit relied upon by the Applicant was instituted on 24.05.2021, i.e. after commencement of CIRP and during subsistence of the moratorium under Section 14 of the Code. According to the Respondent, institution and continuation of such proceedings is barred by the moratorium and the decree obtained therein cannot confer any higher status upon the Applicant in the liquidation process. It is submitted that even otherwise, a decree-holder does not stand on a different footing from other operational creditors under the scheme of the Code.
- vii. The liquidation process has reached an advanced stage. The assets of the CD were sold through e-auction and the sale concluded in February 2024. The liquidation estate realized approximately **Rs.126.29 crores**, which has

already been distributed in accordance with the waterfall mechanism under Section 53 of the Code. Periodic progress reports have been filed and the CD is at the cusp of dissolution.

- viii. Even assuming the Applicant's claim is admitted, the Applicant, being an Unsecured Operational Creditor, would not be entitled to any distribution in view of the insufficiency of liquidation proceeds. It is contended that the realized amount is insufficient even to satisfy the claims of secured financial creditors and other higher-ranking stakeholders under Section 53 of the Code. Therefore, entertaining the present Application would serve no practical purpose and would only delay completion of the liquidation process.
 - ix. The Respondent thus contends that the present Application is belated, devoid of merit, and liable to be dismissed in *limine* as it seeks to unsettle a substantially concluded liquidation process and defeat the objective of time-bound resolution under the Code.
4. The Applicant has filed a rejoinder, on 08.11.2024 stating as follows:
- i. While refuting the objections of Liquidator, it is reiterated that the Application has been filed under Section 42 of the Code seeking to set aside the rejection email dated 28.06.2024 and to condone the delay in submission of its claim.
 - ii. The objection regarding limitation under Section 42 is unsustainable. The Applicant submits that there is only a delay of seven days in filing the present Application and that the reasons for the same have already been explained in the Application. It is argued that a separate application for condonation of delay is not mandatory and that this Authority has the power to condone delay in appropriate cases in the interest of justice.
 - iii. The Liquidator himself took considerable time to respond to the claim submitted by the Applicant and therefore cannot take a hyper-technical objection on limitation. Reliance is placed on an order of the NCLT,

Hyderabad Bench to contend that delay can be condoned even in the absence of a formal application in appropriate circumstances.

- iv. With respect to the contention that the claim is barred under the Liquidation Process Regulations, the Applicant submits that the delay in filing the claim is not disputed and it is precisely for this reason that the present Application has been filed seeking appropriate relief from this Adjudicating Authority.
 - v. The Applicant disputes the Respondent's contention regarding the commercial suit and decree, submitting that the Liquidator could have verified the claim based on invoices and supporting documents irrespective of the decree. It is further contended that despite being aware of the proceedings before the Commercial Court, the Liquidator did not appear in the said proceedings nor inform the Applicant about the liquidation process, which allegedly contributed to the delay in filing the claim.
 - vi. The Respondent's contention regarding the advanced stage of liquidation and priority of financial creditors cannot be a ground to reject the Application at the threshold. According to the Applicant, the Liquidator is bound to consider and verify all claims in accordance with law, and the possibility of lower priority in distribution cannot be a reason to deny admission of the claim itself.
 - vii. On the above grounds, the Applicant has prayed that the delay in filing the present Application under Section 42 be condoned and the Liquidator be directed to consider and admit the claim of the Applicant.
5. Heard Learned Counsels for the parties and carefully perused the material on record.
 6. Before going to the merits, it is necessary to examine the maintainability of the present Application under Section 42 of the IBC. The said provision explicitly provides that:

“A creditor may appeal to the Adjudicating Authority against the decision of the liquidator accepting or rejecting the claims within fourteen days of the receipt of such decision.”

The time limit of fourteen days is not an empty formality but a conscious legislative choice. The object of the Code is to ensure certainty, speed and finality

in insolvency resolution and liquidation. Strict adherence to statutory timelines is the backbone of the scheme.

7. The Hon'ble Supreme Court in *V. Nagarajan v. SKS Ispat and Power Ltd. (2021) 4 SCC 171* has categorically held that limitation provisions under the IBC are strict and cannot be diluted by resorting to equitable considerations in the absence of sufficient cause.
8. In the present case, it is an admitted position that the rejection of the claim was communicated by the Liquidator on 28.06.2024 and the present Application has been filed on 19.07.2024. Thus, the Application has been filed beyond the statutory period of fourteen days. The explanation offered by the Applicant for the delay is that there was a marginal delay of seven days and that the same deserves to be condoned in the interest of justice. However, the Applicant has neither filed a separate application for condonation of delay nor demonstrated any exceptional circumstances warranting relaxation of the statutory timeline. A mere plea of short delay, without demonstrating sufficient cause, cannot be a ground to ignore the express mandate of Section 42, particularly in a liquidation proceeding where certainty and finality are of paramount importance. Having already faced claim rejection on the ground of delay at the hands of Liquidator, the Applicant should have been more vigilant and conscious of the short timeline prescribed for filing appeal instead of being casual as it appears.
9. Even otherwise, the more fundamental issue in the present case pertains to the inordinate delay in submission of the claim before the Liquidator. The record reveals that the public announcement of liquidation was made on 09.03.2023, fixing 08.04.2023 as the last date for submission of claims. The Applicant however submitted its claim only on 09.05.2024, i.e. after a delay of approximately **398 days**. The explanation offered by the Applicant is that it was unaware of the liquidation proceedings. This contention cannot be accepted in view of the statutory scheme of the Code.
10. The IBC proceeds on the principle of deemed notice through public announcements. Once the Liquidator has complied with the statutory requirement

of publishing public announcement in widely circulated newspapers, the obligation shifts to the creditors to exercise due diligence and submit their claims within the prescribed timelines. The plea of lack of actual knowledge cannot be used to defeat the statutory timelines, particularly when the Applicant is admittedly based in the same city where the CD carried on its operations and the public announcements were widely circulated. Having pursued a claim against CD for five years, the Applicant could have lost track of the activities of debtor only at its peril.

11. The contention of the Applicant that it was pursuing remedies before the Commercial Court also does not advance its case. It is well settled that once CIRP is initiated and moratorium under Section 14 comes into effect, claims against the CD must be pursued strictly in accordance with the mechanism provided under the Code. A decree obtained during or after the commencement of insolvency proceedings does not confer any superior status upon the decree-holder in the distribution waterfall under Section 53. The Code does not recognize any special category for decree-holders, and such creditors continue to be governed by their respective classification under the insolvency framework.
12. Before proceeding further, we would be examining Section 36 and Section 53 of the IBC in order to appreciate the submissions advanced by the Learned counsels for the parties:

“36. (1) For the purposes of liquidation, the liquidator shall form an estate of the assets mentioned in sub-section (3), which will be called the liquidation estate in relation to the corporate debtor.

(2) The liquidator shall hold the liquidation estate as a fiduciary for the benefit of all the creditors.

(3) Subject to sub-section (4), the liquidation estate shall comprise all liquidation estate assets which shall include the following: -

(a) any assets over which the corporate debtor has ownership rights, including all rights and interests therein as evidenced in the balance sheet of the corporate debtor or an information utility or records in the registry or any depository recording securities of the corporate debtor or by any other means as may be specified by the Board, including shares held in any subsidiary of the corporate debtor;

(b) assets that may or may not be in possession of the corporate debtor including but not limited to encumbered assets;

(c) tangible assets, whether movable or immovable;

(d) intangible assets including but not limited to intellectual property, securities (including shares held in a subsidiary of the corporate debtor) and financial instruments, insurance policies, contractual rights;

(e) assets subject to the determination of ownership by the court or authority;

(f) any assets or their value recovered through proceedings for avoidance of transactions in accordance with this Chapter;

(g) any asset of the corporate debtor in respect of which a secured creditor has relinquished security interest;

(h) any other property belonging to or vested in the corporate debtor at the insolvency commencement date; and

(i) all proceeds of liquidation as and when they are realized.

(4) The following shall not be included in the liquidation estate assets and shall not be used for recovery in the liquidation: -

(a) assets owned by a third party which are in possession of the corporate debtor, including—

(i) assets held in trust for any third party;

(ii) bailment contracts;

(iii) all sums due to any workman or employee from the provident fund, the pension fund and the gratuity fund;

(iv) other contractual arrangements which do not stipulate transfer of title but only use of the assets; and

(v) such other assets as may be notified by the Central Government in consultation with any financial sector regulator;

(b) assets in security collateral held by financial services providers and are subject to netting and set-off in multilateral trading or clearing transactions;

(c) personal assets of any shareholder or partner of a corporate debtor as the case may be provided such assets are not held on account of avoidance transactions that may be avoided under this Chapter;

(d) assets of any Indian or foreign subsidiary of the corporate debtor; or

(e) any other assets as may be specified by the Board, including assets which could be subject to set-off on account of mutual dealings between the corporate debtor and any creditor.

“53. (1) Notwithstanding anything to the contrary contained in any law enacted by the Parliament or any State Legislature for the time being in force, the proceeds from the sale of the liquidation assets shall be distributed in the following order of priority and within such period and in such manner as may be specified, namely:

—

- (a) the insolvency resolution process costs and the liquidation costs paid in full;*
- (b) the following debts which shall rank equally between and among the following: -
 - (i) workmen’s dues for the period of twenty-four months preceding the liquidation commencement date; and*
 - (ii) debts owed to a secured creditor in the event such secured creditor has relinquished security in the manner set out in section 52;**
- (c) wages and any unpaid dues owed to employees other than workmen for the period of twelve months preceding the liquidation commencement date;*
- (d) financial debts owed to unsecured creditors;*
- (e) the following dues shall rank equally between and among the following: -
 - (i) any amount due to the Central Government and the State Government including the amount to be received on account of the Consolidated Fund of India and the Consolidated Fund of a State, if any, in respect of the whole or any part of the period of two years preceding the liquidation commencement date;*
 - (ii) debts owed to a secured creditor for any amount unpaid following the enforcement of security interest;**
- (f) any remaining debts and dues;*
- (g) preference shareholders, if any; and*
- (h) equity shareholders or partners, as the case may be.*

(2) Any contractual arrangements between recipients under subsection (1) with equal ranking, if disrupting the order of priority under that sub-section shall be disregarded by the liquidator.

(3) The fees payable to the liquidator shall be deducted proportionately from the proceeds payable to each class of recipients under sub-section (1), and the proceeds to the relevant recipient shall be distributed after such deduction.

Explanation. - For the purpose of this section- (i) it is hereby clarified that at each stage of the distribution of proceeds in respect of a class of recipients that rank equally, each of the debts will either be paid in full, or will be paid in equal proportion within the same class of recipients, if the proceeds are insufficient to meet the debts in full; and (ii) the term “workmen’s dues” shall have the same meaning as assigned to it in section 326 of the Companies Act, 2013 (18 of 2013).”

13. We also cannot lose sight of the stage of the liquidation proceedings. The material on record indicates that the assets of the CD have already been sold and substantial distributions have been made in accordance with Section 53 of the Code. The liquidation process is stated to be at an advanced stage and nearing completion. Entertaining belated claims at such a stage would unsettle distributions already made and defeat the objective of time-bound liquidation. The Hon’ble Supreme Court has repeatedly emphasized that the IBC is a complete code intended to ensure certainty and finality, and belated claims cannot be permitted to derail a substantially concluded process.
14. The argument of the Applicant that admission of the claim should be considered independent of the stage of liquidation also cannot be accepted. The Liquidator acts as a fiduciary for all stakeholders and is bound to administer the liquidation estate in a manner that preserves finality and fairness. Permitting admission of a claim filed after more than a year of the last date, particularly after distribution of liquidation proceeds, would prejudice other stakeholders and undermine the sanctity of the statutory timelines.
15. Even assuming that the Applicant’s claim were to be admitted, it is not disputed that the Applicant would fall within the category of unsecured operational creditors

under Section 53 of the Code. The Respondent has placed on record that the realized liquidation proceeds are insufficient to satisfy the claims of higher-ranking stakeholders in the waterfall mechanism. While this in itself may not be a ground to reject a claim, it reinforces the futility of disturbing a near-complete liquidation process at the instance of a creditor who failed to exercise due diligence within the prescribed timelines.

16. In the light of the foregoing discussion, we are of the considered view that the Applicant has failed to demonstrate any sufficient cause for condonation of delay either in filing the appeal under Section 42 or in submission of the claim before the Liquidator. The scheme of the Code does not permit reopening of liquidation proceedings at the behest of a creditor who remained indolent for a prolonged period and approached this Tribunal only after completion of substantial steps in liquidation.

17. In view of the aforesaid discussions, the I.A. No. 573 of 2024 filed by the Applicant under Section 42 of the IBC, 2016 stands dismissed as barred by limitation on both levels. No order as to costs.

-Sd-

**RADHAKRISHNA SREEPADA
MEMBER (TECHNICAL)**

-Sd-

**SUNIL KUMAR AGGARWAL
MEMBER (JUDICIAL)**