

IN THE NATIONAL COMPANY LAW TRIBUNAL

NEW DELHI BENCH

COURT-IV

IA NO. 33 OF 2025

IN

CP (I.B.) NO. 613/ND/2019

IN THE MATTER OF:

State Bank of India

...Financial Creditor

Versus

Shri Lal Mahal Ltd

...Corporate Debtor

AND IN THE MATTER OF:

Rekha, W/o Virender Kumar

Proprietor Of Shri Krishan Nitin Kumar

...Applicant

VERSUS

Debashish Nanda

Liquidator,

Nutrionex Manufacturers Limited

...Respondent/Liquidator

Mr. Sanjeev Ahuja,

Registered Insolvency Professional,

Earlier IRP For Nutrionex Manufacturers Ltd.

...Respondent

CORAM:

SHRI MANNI SANKARIAH SHANMUGA SUNDARAM,

HON'BLE MEMBER (JUDICIAL)

SHRI ATUL CHATURVEDI

HON'BLE MEMBER (TECHNICAL)

Order Delivered on: 08.06.2026

Present:

For the Applicant : Mr. Gaurav Gupta, Adv.

For the Liquidator : Mr. Sarthak Bhandari, Adv.

ORDER

PER: MANNI SANKARIAH SHANMUGA SUNDARAM, MEMBER (J)

1. Upon consideration is an application filed by the Applicant herein i.e. Rekha, w/o Virender Kumar, aged 55 years Proprietor of Shri Krishan Nitin Kumar under Section 60(5) r/w Section 42 of the Code praying with the following relief:

“6.1 Condone the delay in the filing of the Applicant’s application with the Hon’ble NCLT in C.P. (L.B.) No. 613/ND/2019 and permit the Applicant’s filings to proceed and be heard on merit in the ongoing case.

6.2 Direct the Liquidator, CMA Debashis Nanda, to include the Applicant’s name as an operational creditor in the liquidation process as per Section 60(5) read with Section 42 of the Code.

6.3 Pass any other or further orders as this Hon’ble Tribunal may deem fit in the interests of justice.”

2. **The facts of the matter as averred by the Applicant are as follows:**

- a. The Applicant, Rekha, Proprietor of Shri Krishan Nitin Kumar, through her counsel, Gaurav Gupta, Advocate, has filed the present application under Sections 60(5) read with 42 of the Insolvency and Bankruptcy Code, 2016, seeking inclusion of her claim as an Operational Creditor in the liquidation process of the Corporate Debtor, Nutrionex Manufacturers Ltd. (formerly Shri Lal Mahal Ltd.), in C.P. (IB) No. 613/ND/2019 titled State Bank of India vs. Shri Lal Mahal Ltd.
- b. Earlier, the Applicant had initiated proceedings under Section 9 of the Code in C.P. (IB) No. 239/ND/2020 for recovery of operational dues.

The said petition was disposed of with liberty to file her claim in the CIRP already initiated by SBI in C.P. (IB) No. 613/ND/2019.

- c.** Pursuant thereto, the Applicant submitted Form B along with supporting documents before the then IRP, Mr. Sanjeev Ahuja, who, vide email dated 10.09.2021, acknowledged her claim as an operational debt amounting to ₹2,51,61,502 (inclusive of interest). All supporting documents, including Form B, List of Dates, Memo of Parties, and relevant financial statements, were duly submitted to the IRP. The Applicant has preserved these records in a Google Drive folder created in 2021, which remains unaltered.
- d.** That on 19.09.2023, this Hon'ble Tribunal ordered liquidation of the Corporate Debtor and appointed CMA Debashis Nanda as Liquidator. On 17.10.2024, the Applicant's counsel sought status of the claim in liquidation; however, by email dated 21.10.2024, the Liquidator rejected the claim as time-barred and for not being refiled in liquidation. That on the same day, the Applicant furnished additional documents, including proof of the IRP's acknowledgment of the claim in 2021. Nevertheless, the Liquidator, vide final response dated 26.10.2024, reiterated the rejection and declined to admit the claim.
- e.** The Applicant has submitted that its claim was duly filed in compliance with the Tribunal's directions in C.P. (IB) No. 239/ND/2020 and was acknowledged by the IRP as an operational debt in CIRP proceedings in C.P. (IB) No. 613/ND/2019. In view of such acknowledgment, the Applicant's entitlement to be treated as an Operational Creditor ought to continue in liquidation. It further stated that the Liquidator's

rejection of the claim as time-barred is unjust and contrary to settled principles of equity, as it disregards both the Tribunal's directions and the Applicant's due procedural compliance.

f. The Applicant, by way of the present application, also seeks condonation of delay under Rule 11 of the NCLT Rules, 2016 read with Section 5 of the Limitation Act, 1963 in C.P. (IB) No. 613/ND/2019 (State Bank of India vs. Shri Lal Mahal Ltd.). The Applicant had initially pursued her claim under Section 9 in C.P. (IB) No. 239/ND/2020 but, pursuant to the Tribunal's directions, duly filed her claim in the ongoing CIRP under Section 7 in C.P. (IB) No. 613/ND/2019, furnishing all requisite particulars and remaining in continuous communication with the CIRP team.

g. It is further submitted that despite such compliance, she received no intimation regarding the commencement of liquidation or any requirement to refile her claim. In March 2024, she was advised to approach the Liquidator and accordingly initiated correspondence with CMA Debashish Nanda; however, no specific timelines or procedural requirements for filing before the NCLT were communicated to her.

h. The Applicant submits that the delay in filing occurred due to lack of any direct notification, despite her continuous efforts to remain in contact with the CIRP team and comply with all procedural requirements, and was thus beyond her control. Her claim has strong prima facie merit, having been duly acknowledged by the IRP, Mr. Sanjeev Ahuja, and supported by contemporaneous records. Rejection on mere procedural delay would result in undue hardship and

substantial financial loss. Accordingly, condonation of delay is warranted in the interest of justice, as the Applicant acted bona fide, without any willful negligence, and in line with the principles of fairness and equity under the Code.

3. REPLY ON BEHALF OF THE LIQUIDATOR OF NUTRIONEX MANUFACTURERS LIMITED

- a.** The Respondent submitted that the Corporate Insolvency Resolution Process (CIRP) of the Corporate Debtor commenced pursuant to order passed by this Adjudicating Authority vide order dated 25.02.2021. The Applicant submitted its claim before the Resolution Professional on 17.08.2021, although the RP opined that the claim was time-barred, it was nevertheless considered and placed before the Resolution Applicant.
- b.** During the CIRP, no resolution plan was approved by the Committee of Creditors, and the maximum prescribed period of 330 days, which ended on 15.03.2022, elapsed without resolution. Consequently, this Adjudicating Authority, vide order dated 19.09.2023 under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016, directed liquidation of the Corporate Debtor and appointed Mr. Debashis Nanda (IBBI Reg. No. IBBI/IPA-003/IP-N00040/2017-2018/10316) as the Liquidator.
- c.** The Respondent submitted that pursuant to the liquidation order dated 19.09.2023, the Liquidator issued a public announcement in Form B under Regulation 12 of the IBBI (Liquidation Process) Regulations, 2016, inviting claims from creditors. The announcement was published on 25.09.2023 in 'Financial Express' and 'Jansatta' and uploaded on

the IBBI website, with 21.10.2023 as the last date for submission of claims.

- d.** Thereafter, the Liquidator received claims from creditors from time to time in response to the said public announcement. That the answering respondent, in compliance with Regulation 31(2) of the IBBI (Liquidation Process) Regulations, 2016, duly filed the list of stakeholders before this Hon'ble Tribunal.
- e.** In the meetings dated 27.09.2023 and 02.11.2023, the Stakeholders Consultation Committee (**'SCC'**) resolved to sell the Corporate Debtor as a going concern in accordance with the Liquidation Regulations. Pursuant thereto, an e-auction conducted on 30.11.2023 resulted in Central Government Employees Consumer Cooperative Society Limited emerging as the successful bidder with a bid of ₹28,03,82,436. The sale certificate was issued on 12.12.2023, and possession of all physical assets was handed over on 31.01.2024. The entire sale consideration has since been received and distributed to stakeholders in accordance with Section 53 of the Insolvency and Bankruptcy Code, 2016.
- f.** The Applicant submitted a claim of ₹2,51,61,502 to the answering respondent on 17.10.2024; however, vide email dated 21.10.2024, the claim was rejected as being beyond the prescribed deadline of 21.10.2023 under the public announcement dated 25.09.2023. It was further noted that, although a claim had been filed during the CIRP, it was not admitted on the ground of being time-barred, and no claim was submitted during the liquidation process. The Liquidator also stated that the list of stakeholders, prepared under Regulation 31 on the basis

of admitted claims and already filed before the Adjudicating Authority, could not be modified, particularly as the liquidation process was at an advanced stage. Additionally, the claim was stated to be unsupported by requisite documents, and accordingly, it was not entertained and stood rejected.

- g.** That it is pertinent to note that under Section 38 of the Code, the Liquidator is required to receive and collect claims of creditors within 30 days from the commencement of the liquidation process. Further, under Section 39, the Liquidator is mandated to verify such claims within the time stipulated by the IBBI, i.e., 30 days. Accordingly, the Liquidator is empowered to verify only those claims that are submitted within the prescribed timelines under Section 38. Relevant extracts of Sections 38 and 39 are reproduced hereunder:

"38. Consolidation of claims. - (1) The liquidator shall receive or collect the claims of creditors within a period of thirty days from the date of the commencement of the liquidation process.

.....

.....”

“39. Verification of claims.- (1) The liquidator shall verify the claims submitted under section 38 within such time as specified by the Board. (2) The liquidator may require any creditor or the corporate debtor or any other person to produce any other document or evidence

which he thinks necessary for the purpose of verifying the whole or any part of the claim.”

h. In view of the same the Respondent stated that the Applicant has failed to submit its claim within the timelines prescribed under the Code and the Liquidation Regulations. The claim, having already been rejected during the CIRP as time-barred and not filed within the stipulated period during liquidation, cannot be considered at this advanced stage. The Liquidator has acted strictly in accordance with the Code, the Liquidation Regulations, and the directions of this Hon'ble Tribunal. The liquidation process is at its final stage, with the Corporate Debtor sold as a going concern, the sale proceeds distributed in terms of Section 53, and an application for closure already filed. Accordingly, the present application, being devoid of merit, is liable to be dismissed.

ANALYSIS AND FINDINGS

- 4.** We have heard the submissions of the Applicant and the Liquidator of the Corporate Debtor and have perused the documents placed on record.
- 5.** The present Application has been preferred by Smt. Rekha, Proprietor of M/s Shri Krishan Nitin Kumar, inter alia, seeking issuance of appropriate directions to Sh. Dabashis Nanda, the Liquidator of Nutrionex Manufacturers Ltd, to admit the claim of the Applicant amounting to Rs. 2,51,61,502/- (Rupees Two Crore Fifty-One Lakh Sixty-One Thousand Five Hundred and Two Only) and to include the name of the Applicant in the list of Operational Creditors and further prayed for condonation of delay in filing the present Application before this Adjudicating Authority.

- 6.** Upon perusal of the record, it is observed that a public announcement in Form A, in compliance with Regulation 6(1) of the CIRP Regulations, was issued by the Interim Resolution Professional on 02.03.2021, inviting submission of claims from the creditors of the Corporate Debtor. The last date stipulated for submission of such claims was 15.03.2021. It is further noted that the Applicant submitted its claim belatedly on 01.05.2021. The Resolution Professional, vide communications dated 19.08.2021 and 10.09.2021, duly intimated the Applicant that the claim so submitted was time-barred. Consequently, the said claim was not collated, and the Applicant was not included in the list of creditors of the Corporate Debtor. However, the claim of the Applicant was, forwarded to the prospective resolution applicants for their information; nonetheless, no resolution plan came to be approved by the Committee of Creditors (“CoC”). Significantly, the Applicant did not assail or challenge the decision of the RP at any stage.
- 7.** It is further noted that, during the CIRP, no resolution plan came to be approved by the CoC. Upon expiry of the maximum statutory period of 330 days on 15.03.2022. That vide order dated 19.09.2023 passed under Section 33(1)(a) of the Insolvency and Bankruptcy Code, 2016, and directed initiation of liquidation proceedings against the Corporate Debtor. That vide order dated 19.09.2023 this Adjudicating Authority appointed Mr. Debashis Nanda as the Liquidator of the Corporate Debtor.
- 8.** The Applicant submitted its claim vide email dated 17.10.2024, i.e., after a delay of over 400 days from the public announcement issued by the Liquidator pursuant to the liquidation order dated 19.09.2023. It is observed from the record that the claim of the Applicant was rejected by the Liquidator on

account of inordinate delay and non-compliance with the prescribed procedure.

9. In terms of Regulation 12 of the Liquidation Process Regulations, claims are required to be filed within 30 days of the public announcement, the last date being 21.10.2023. However, the Applicant failed to adhere to the prescribed timeline and procedure, as the claim was not filed in the prescribed form and was unsupported by requisite documents.
10. It is further noted that, in the meantime, the Corporate Debtor had already been sold as a going concern, with the sale certificate issued on 12.12.2023 and possession handed over on 31.01.2024. The sale proceeds have also been fully realized and distributed in accordance with Section 53 of the Insolvency and Bankruptcy Code, 2016.
11. It is well settled that, in certain circumstances, this Adjudicating Authority has condoned delays in the submission of claims, particularly where the liquidation process had not attained finality and distribution of assets remained pending. In such cases, and in the interest of justice, belated claims have been permitted to be considered, provided that no prejudice is caused to the liquidation process or to the rights and interests of other stakeholders.
12. The Hon'ble National Company Law Appellate Tribunal, in ***M/s Shiv Shakti Inter Globe Exports Private Limited v. M/s KTC Foods Private Limited, Company Appeal (AT) (Ins.) No. 650 of 2020***, had occasion to consider an appeal assailing the refusal of the Adjudicating Authority to extinguish the residual unpaid liabilities of the Corporate Debtor subsequent to distribution of sale proceeds upon its sale as a going concern in terms of Section 53 of the Insolvency and Bankruptcy Code, 2016.

“21. Adverting to the contention of the Learned Counsel for the Appellant that the Adjudicating Authority has erred in denying the sale of the ‘Corporate Debtor’ as a ‘going concern’ to the Appellant without including any contingent liabilities, **we hold that it is a settled law that when the sale proceeds of a ‘Corporate Debtor’ are duly distributed in the Order of priority and in the manner prescribed under Section 53 of the Code, claims of any other Creditor cannot be entertained contrary to the provisions entailed under Section 53; subsequent to the distribution of sale proceeds under Section 53 no other entity including any Government entity can claim any past unpaid or outstanding dues against the Appellant who has purchased the ‘Corporate Debtor Company’ as a ‘going concern’.** It is significant to mention that the second Respondent/Liquidator has specifically submitted that even these claims by the Uttar Haryana Bijili Vitran Nigam were not submitted in the prescribed form either during the CIRP Process or at the Liquidation stage. We are of the considered view that at this stage subsequent to the sale of the ‘Corporate Debtor Company’ as a ‘going concern’, these claims cannot be foisted upon the Appellant. The scope and objective of the Code is to extinguish all claims specifically the ones which were not even made during the CIRP or in the Liquidation stage, to aid the purchaser of the Company as a ‘going concern’ to start on a ‘clean slate’. The Hon’ble Supreme Court in ‘Ghanshyam Mishra & Sons Pvt. Ltd.’ Vs. ‘Edelweiss Asset Reconstruction Company Ltd. & Ors.’, Civil Appeal No. 8129 of 2019 and in ‘CoC of Essar Steel India Ltd.’ Vs. ‘Satish Gupta & Ors.’ (2020) 8 SCC

531 has laid down the proposition that the purchaser of the Company even in the Liquidation stage cannot be burdened with past liabilities when it is not mentioned in the 'Sale Notice'."

- 13.** We note that a creditor who submits its claim within the prescribed timeline is entitled to seek its admission as a matter of right; however, a creditor who fails to do so within the stipulated period cannot subsequently assert such right with equal force. By its own conduct, such creditor places itself within a domain where the exercise of discretion by the Adjudicating Authority becomes determinative. It is trite that adherence to strict timelines constitutes the very foundation of an efficient and successful insolvency resolution framework under the Code.
- 14.** In the present case, it is observed that the claim of the Applicant was belatedly submitted during the CIRP and was not admitted by the Resolution Professional on account of delay. Notably, the Applicant did not challenge the said decision at any stage.
- 15.** Subsequently, upon initiation of liquidation proceedings and appointment of the Liquidator, the Applicant once again submitted its claim at a highly belated stage, i.e., after more than 400 days from the date of the public announcement. The last date for submission of claims was 21.10.2023; however, the Applicant submitted its claim only on 17.10.2024, that too merely by way of an email, without filing the prescribed claim form or annexing any supporting documents to substantiate its claim.
- 16.** It is further borne out from the record that, in the interregnum, the Corporate Debtor had already been sold as a going concern in accordance with the

Liquidation Regulations to the Central Government Employees Consumer Cooperative Society Limited. The sale certificate was issued on 12.12.2023, and possession of all physical assets was handed over on 31.01.2024. The entire sale consideration has been duly realized and distributed amongst the stakeholders in accordance with the waterfall mechanism under Section 53 of the Insolvency and Bankruptcy Code, 2016.

- 17.** In view of the aforesaid facts and circumstances, this Adjudicating Authority is of the considered opinion that the Applicant has failed to substantiate or justify the reliefs sought. Moreover, in light of the fact that the Corporate Debtor has already been sold as a going concern and the liquidation process has attained finality with distribution of proceeds in accordance with law, no cause of action survives for consideration in the present Application.

Accordingly, the present Application i.e. **IA No. 33 of 2025 stands dismissed.**

Sd/-

**ATUL CHATURVEDI
MEMBER (TECHNICAL)**

Sd/-

**MANNI SANKARIAH SHANMUGA SUNDARAM
MEMBER (JUDICIAL)**