2026 INSC 1224

Non-reportable

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

Civil Appeal Nos. 3110-3111 of 2026

Lulu International Shopping Malls Private Limited ….. Appellant

versus

Gorinka Pratyusha and others Etc. ….. Respondents

J U D G M E N T

SANJAY KUMAR, J

1. Dismissal of the recall applications filed by Lulu International Shopping Malls Private Limited, the appellant, by the National Company Law Appellate Tribunal[1], Chennai, *vide* common order dated 10.02.2026, is the source for grievance in these appeals.

2. On 16.03.2026, this Court stayed the proceedings in Company Appeal (AT)(CH)(INS) Nos. 388 and 389 of 2025 on the file of the NCLAT.

3. The National Company Law Tribunal, Hyderabad Bench[2], initiated corporate insolvency resolution process against Manjeera Retail Holdings Private Limited, the corporate debtor, *vide* order dated 18.07.2023 in Company Petition (IB) No. 296/7/HDB/2022. The appellant emerged the

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1 For short, 'the NCLAT'
2 For short, 'the NCLT'

successful resolution applicant therein, upon 100% approval of its resolution plan by the Committee of Creditors of the corporate debtor. Thereafter, its resolution plan was approved by the NCLT, *vide* order dated 26.03.2025 passed in IA(IBC)(Plan) No. 08 of 2024 in CP (IB) No. 296/7/HDB/2022. Pursuant thereto, the appellant claims to have invested ₹271.52 crore in the implementation of its resolution plan.

4. While so, the respondents, viz., Gorinka Pratyusha, Srinivas Kalluri and Rajani Kalluri, who claimed to have entered into agreements with the corporate debtor for purchase of commercial units in Manjeera Mall, that was to be constructed by the corporate debtor, filed appeals against the approval of the resolution plan. Company Appeal (AT)(CH)(Ins) No. 388 of 2025 was filed by Gorinka Pratyusha and Company Appeal (AT)(CH)(Ins) No. 389 of 2025 was filed by Srinivas and Rajani Kalluri. Their complaint therein was that Birendra Kumar Agarwal, the Resolution Professional of the corporate debtor, had recorded the payments made by them, towards full sale consideration for their units, as 'advances from customers' instead of acknowledging them as financial creditors. They contended that the orders of the NCLT in I.A. Nos. 384 and 492 of 2024 in the company petition, directing the Resolution Professional to include their claims in the Information Memorandum, were not given effect to.

5. However, the aforestated appeals filed by them were not within time, in terms of the limitation prescribed in Section 61(2) of the Insolvency and

Bankruptcy Code, 2016[3]. Section 61(2) provided for an appeal being filed within 30 days of the date of the order with a condonable delay of 15 extra days and no more. In terms thereof, the appeals should have been filed within the 30 day-period that expired on 25.04.2025 or at least within the extendable 15 day-period that expired on 10.05.2025. However, both the appeals were filed by the respondents on 11.05.2025, i.e., on the 46th day. Their applications for condonation of delay on their part were, however, allowed by the NCLAT, *vide* common order dated 10.10.2025 passed in I.A. Nos. 1139 of 2025 in Company Appeal (AT)(CH)(Ins) No. 388 of 2025 and I.A No. 1141 of 2025 in Company Appeal (AT)(CH)(Ins) No. 389 of 2025, by applying Section 4 of the Limitation Act, 1963[4], on the ground that the 45th day, being the last day of the extendable 15-day period under Section 61(2), fell on a holiday, i.e., 10.05.2025, a second Saturday.

6. Aggrieved by such condonation of delay by the NCLAT, the appellant filed recall applications in I.A. No. 183 in Company Appeal (AT)(CH)(Ins) No. 388 of 2025 and I.A. No.232 of 2026 in Company Appeal (AT)(CH)(Ins) No. 389 of 2025. The appellant also filed I.A. No. 184 in Company Appeal (AT)(CH)(Ins) No. 388 of 2025 and I.A. No. 233 of 2026 in Company Appeal (AT)(CH)(Ins) No. 389 of 2025, seeking condonation of the delay of three days in filing the said recall applications.

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3 For short, 'the IBC'

4 For short, 'the Act of 1963'

7. The specific case of the appellant in its recall applications was that the decision of this Court in ***Tata Steel Ltd. vs. Raj Kumar Banerjee and others***[5] barred the application of Section 4 of the Act of 1963 when an appeal was filed beyond the prescribed period of 30 days under the IBC. This Court categorically held therein that the expression 'prescribed period' appearing in Section 4 of the Act of 1963 could not be construed to mean anything other than the 'period of limitation' and any period beyond that prescribed period, during which the Court or Tribunal has the discretion to allow a person to institute the proceedings, cannot be taken to be part of the 'prescribed period'. Hence, as per the above decision, the benefit of exclusion of the period during which a Court or Tribunal is closed shall be available only when the appeal is filed within the 'prescribed period of limitation' and shall not be available in respect of the period extendable by the Court in exercise of its discretion.

8. Perusal of the impugned common order dated 10.02.2026 passed by the NCLAT reflects that the delay of 3 days on the part of the appellant in filing the recall applications was condoned but the recall applications came to be dismissed. Though the aforestated decision of this Court was specifically brought to its notice, the NCLAT opined that the order dated 10.10.2025 was passed by it on merits after hearing the counsel for the parties and it could not be recalled on the basis of fresh evidence and

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5 (2025) 9 SCC 483

material. It was further observed that submission of a precedent, giving a ruling different from the order sought to be recalled, subsequent to the passing of the said order, cannot be a reason to recall such order as it would not fall within the ambit of exercising inherent powers to rectify an error apparent on the face of the record. According to the NCLAT, the only scope left for the appellant was to invoke remedies as were available to it in law. Holding so, the NCLAT rejected the appellant's recall applications.

9. First and foremost, we may note that the NCLAT was in error in opining that the decision of this Court in ***Tata Steel Ltd.*** (*supra*) was subsequent to its order dated 10.10.2025, as ***Tata Steel Ltd.*** (*supra*) was decided on 07.05.2025, long before the order dated 10.10.2025 was passed by the NCLAT, condoning the delay in the filing of the appeals by the respondents. Further, when this Court clarifies the legal position in relation to a statutory provision, the same would be the law of the land and there is no question of an order contrary thereto passed earlier by a Court or Tribunal being saved, unless such order has attained finality.

10. It is no doubt true that the NCLAT does not have the power of review under the provisions of the IBC but it is vested with the power of recalling its orders by exercising its inherent jurisdiction under Rule 11 of the National Company Law Appellate Tribunal Rules, 2016. This was the import of the 5-Judge Bench decision of the NCLAT in ***Union Bank of India (erstwhile Corporation Bank) vs. Dinkar T Venkatasubramanian***

and others[6], wherein it was held that, though it was not vested with power to review a judgment, however, in exercise of its inherent jurisdiction, the NCLAT can entertain an application for recall of a judgment on sufficient grounds. This 5-Judge Bench decision of the NCLAT was confirmed by this Court in ***Union Bank of India vs. Financial Creditors of Amtek Auto Ltd. and others***[7]. This Court observed therein that it was in agreement with the view taken by the 5-Judge Bench of the NCLAT and found no reason to interfere with the said judgment.

11. More recently, in ***Greater Noida Industrial Development Authority vs. Prabhjit Singh Soni and another***[8], upon reviewing the case law on the subject, a 3-Judge Bench of this Court observed that the law which emerged from such decisions was that a Tribunal or a Court is invested with such ancillary and incidental powers as may be necessary to discharge its functions effectively for the purpose of doing justice between the parties and, in the absence of a statutory provision, in an appropriate case, it can recall its orders in exercise of such ancillary or incidental powers.

12. Therefore, the NCLAT was not justified in refusing to exercise its inherent jurisdiction even when apprised of the settled legal position with regard to application of Section 4 of the Act of 1963. More so, as the

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6 (2024) 248 Comp Cas 108 (NCLAT)
7 (2024) 248 Comp Cas 126 (SC)
8 (2024) 243 Comp Cas 452 (SC)

respondents did not even establish sufficient cause for condonation of the the delay on their part in the filing of their appeals. Be it noted that 10.05.2025 was a second Saturday and the NCLAT was of the opinion that the same constituted sufficient grounds to prolong the extended limitation period to the 46th day. However, it is an admitted fact that the appeals were e-filed on the next day, i.e., on 11.05.2025, which was also a holiday, being Sunday. Therefore, such e-filing of the appeals could as well have been done on 10.05.2025 itself. In any event, the application of Section 4 of the Act of 1963 in the case on hand was not valid, given the legal position as set out in ***Tata Steel Ltd.*** (*supra*).

13. It has been contended by the learned senior counsel appearing for the respondents that the common order dated 10.10.2025 passed by the NCLAT, condoning the delay in the filing of the appeals, was not separately challenged and as the time to do so has expired, the said order is not liable to be interfered with. It is pointed out that there can be no merger of the said order with the order dismissing the recall applications and, therefore, condonation of delay by the NCLAT is deemed to have attained finality. However, this specious argument loses sight of the fact that the condonation of delay in the filing of the appeals did not attain finality, as the recall applications filed by the appellant in relation thereto kept the issue alive and when the NCLAT, in its wisdom, refused to exercise its inherent jurisdiction to recall such order and the same was

subjected to appellate review before this Court, the same can be remedied by this Court in exercise of jurisdiction under Section 62 of the IBC.

14. On the above analysis, this Court finds that entertainment of the appeals by the NCLAT was illegal, as the appeals were filed beyond the time prescribed in Section 61(2) of the IBC. Further, the NCLAT erred in failing to apply the law laid down by this court in ***Tata Steel Ltd.*** (*supra*).

15. The appeals are accordingly allowed, setting aside the order dated 10.02.2026 passed by the NCLAT, Chennai, in the recall applications in IA No. 183 of 2026 in Company Appeal (AT)(CH)(Ins) No. 388 of 2025 and IA No. 232 of 2026 in Company Appeal (AT)(CH)(Ins) No. 389 of 2025. The recall applications shall stand allowed and the common order dated 10.10.2025 in IA No. 1139 of 2025 in Company Appeal (AT)(CH)(Ins) No. 388 of 2025 and IA No. 1141 of 2025 in Company Appeal (AT)(CH)(Ins) No. 389 of 2025 shall stand set aside. In consequence, Company Appeal (AT)(CH)(Ins) Nos. 388 and 389 of 2025 on the file of the NCLAT, Chennai, shall stand dismissed on the ground of limitation.

Parties shall bear their own costs.

....., J
SANJAY KUMAR

....., J
SANJEEV SACHDEVA

November 16, 2026
New Delhi.