

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

I.A. No. 235 of 2026

In

Company Appeal (AT) (Insolvency) No. 67 of 2026

IN THE MATTER OF:

**Fiza Constructions
(Through Its Sole Proprietor,
Syed Hussain Abbas Zaidi)**

...Appellant

Versus

Navneet Kumar Gupta & Anr.

...Respondents

Present:

For Appellant : Mr. Ashutosh Gupta, Mr. Gaurav Rana, Mr. Ajitesh Kunal and Mr. Shivanshu Srivastava, Advocates.

For Respondents : Mr. Gaurav Singh and Mr. Shivam Patel, Advocates for R-1.

O R D E R

ASHOK BHUSHAN, J.

This is an application filed by the appellant praying for condonation of delay in filing of the appeal.

2. The order impugned dated 06.10.2025 was passed by the adjudicating authority approving the resolution plan of the corporate debtor and the present appeal against the impugned order has been e-filed on 11.12.2025.

3. Learned counsel for the appellant submitted that the appellant is an operational creditor, who was not part of the proceeding in the plan approval application and came to know about the order after he received communication from the Resolution Professional (“**RP**”) on 04.11.2025 by the RP. It is submitted that copy of the order was uploaded only on 28.10.2025

and from calculating the limitation from 28.10.2025, delay in filing the appeal is within the condonable period of 15 days.

4. Notices were issued on the delay condonation application. Reply has been filed both by the RP and Successful Resolution Applicant (“SRA”). Rejoinder has been filed by the appellant.

5. Learned counsel for the respondents refuting the submissions of the appellant submits that the order having been dictated on 06.10.2025, limitation is to be counted from 06.10.2025 and appeal filed on 11.12.2025 is beyond the condonable period. It is further submitted by the counsel for the respondent that appellant has not applied even certified copy of the order and in view of the recent judgment of the Hon’ble Supreme Court in **‘Angelwoods Apartment Allottees Association’ Vs. ‘M Lalitha & Anr.’** in **[Civil Appeal Nos.14439-1440/2025]** delay condonation application need to be rejected. Learned counsel for the respondent further submits that knowledge of the order by the appellant is not relevant for computation of delay and limitation need to be computed from the date of the order dated 06.10.2025.

6. Learned counsel for the appellant further submits that respondent No. 2 has also filed an appeal against the same order 06.10.2025 being Comp. App. (AT) (Ins.) No.1828/2025, which appeal was also filed with delay and appellant himself pleaded that order was uploaded on 28.10.2025. In the appeal filed by respondent No. 2, he has relied on uploading of the order on 28.10.2025.

7. We have considered the submissions of the counsel for the parties and perused the records.

8. There is no dispute between the parties regarding that order was dictated on 06.10.2025. According to the appellant order was uploaded only on 28.10.2025 and the limitation is to be computed from the said date.

9. We need to consider the submission on the judgment of the Hon'ble Supreme Court relied by the Respondent in '**Angelwoods Apartment Allottees Association'** (**supra**). In the said case, the company appeal was filed with delay of 15 days and there was also refiling delay of 150 days. The NCLAT Chennai allowed both the applications against which the appeal was filed in the Hon'ble Supreme Court. Hon'ble Supreme Court noticed that appellant has not filed the certified copy of the order even though when defect was pointed out, the certified copy of the order was not filed. Hon'ble Supreme Court relying on the judgment in '**V. Nagarajan' Vs. 'SKS Ispat & Power Ltd. & Ors.'**' reported in **[(2022) 2 SCC 244]** held that applying of certified copy of the order is an obligation cast under Rule 22 of the NCLT Rules, 2016. In paragraph 7, Hon'ble Supreme Court laid down following:

"7. Having considered the arguments advanced and the documents on record, the central issues for adjudication are:

(i) Whether the appeal filed by Respondent No. 1 was within the prescribed limitation period of 30 days, along with the additional condonable period of 15 days as provided under section 61(2) IBC; and

(ii) If not, whether the NCLAT has the power to condone the delay beyond the said prescribed and condonable period under the IBC."

10. Hon'ble Supreme Court in the above case in paragraph 9 held that when appellant has not even applied for certified copy of the order in that case and has also not made an application for exemption from filing certified copy of the order, the appeal ought not to have been entertained. In paragraphs 9 & 10 of the judgment, Hon'ble Supreme Court laid down following:

“9. At the outset, as clarified by the parties, only submissions on the aspect of limitation have been pressed. The finding of this Court is limited to a determination on whether the appeal before Nclat under Section 61(1) IBC was barred by limitation.

10. The present dispute arises over the period of limitation applicable for filing an appeal against an order of NCLT under IBC. The provisions of IBC, the Companies Act, the Limitation Act, the NCLT Rules and the Nclat Rules have been placed before this Court during the hearing. The relevant provisions are extracted below and are referred to, in turn. IBC is a complete code. It has an overriding effect, as stated in Section 238:

“238. Provisions of this Code to override other laws.—The provisions of this Code shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or any instrument having effect by virtue of any such law.”

11. Learned counsel for the appellant referring to paragraph 10 of the above judgement of the Hon'ble Supreme Court submits that in the present case, appellant has already filed I.A. No.236/2026 along with the appeal seeking exemption from filing certified copy of the order, hence the appellant's case is governed by paragraph 10 of the order and this Court can consider the application for exemption as well as the delay condonation application in accordance with law.

12. When we look into paragraphs 9 & 10 of the judgment of the Hon'ble Supreme Court, it is clear that duty is cast on the litigant to apply certified copy of the order as required by Rule 22. However, as noticed in the judgment of the Hon'ble Supreme Court in '**V. Nagarajan**' (**supra**) as well as in '**Angelwoods Apartment Allottees Association**' (**supra**), an application for exemption from filing such certified copy can be entertained. In the present case I.A. No.236/2026 having been filed by the appellant seeking exemption, we need to consider the application for exemption as well as application for condonation of delay.

13. Learned counsel for the appellant has further relied on the judgment of the Hon'ble Supreme Court in '**Omkara Assets Reconstruction Private Limited**' Vs. '**Yadavalli Sai Karunakar & Anr.**' in [Civil Appeal No.2552/2025], where Hon'ble Supreme Court was hearing an appeal against the order where delay condonation application was rejected. It is useful to notice paragraphs 4 to 7 of the judgment, which are as follows:

“4. The NCLAT in its impugned order has observed in Para 16 as under:

“16. The aforesaid principle will not be applicable under the facts and circumstances of the instant case and the bar of limitation cannot be exempted to be applied for the reasons given hereunder:

(a) The Judgment was rendered on 29.07.2024, and was mostly likely uploaded on the same day as the Appellant did not furnish the date of uploading.

(b) 30 days period would be expiring on 28.08.2024;

(c) He is expected to file the Appeal on or before 28.08.2024, as per Section 61(2) of

the I & B Code, 2016, but, he filed the Appeal on 14.09.2024, with a delay of 17 days.

(d) The Appellant claims to have got the knowledge of the Order on 19.08.2024, on basis of the email by the Liquidator. However, since the Judgment was rendered on 29.07.2024 and was in all likelihood uploaded on the same day in absence of any evidence to the contrary, preferred by the Appellant, date of knowledge will be presumed to be 29.07.2004.

(e) Further, the Certified copy of the order was applied for only on 9-10-2024. Therefore, he will not get any benefit of Section 12 of Limitation Act.”

5. We heard Mr. Jayant Mehta, the learned Senior counsel appearing for the appellant – Secured Financial Creditor and Mr. Surya Prakash, the learned counsel appearing for the Respondent No.2 - Bank of India.

6. We are dismayed with the manner in which the NCLAT looked into the explanation which was offered i.e. the sufficient cause which was assigned by the appellant in so far as delay is concerned. We need not say anything further in the matter.

7. In view of the aforesaid, the impugned order passed by the NCLAT is set aside and the matter is remitted to the NCLAT. The appeal filed by the appellant shall now be heard on its own merits in accordance with law.”

14. The Hon’ble Supreme Court in the above case has set aside the order and accepted the explanation given by the appellant.

15. Learned counsel for the respondent contended that the above judgment of the Hon’ble Supreme Court is clearly distinguishable, where in the above case, appellant was sole contesting party and not made party to the application.

16. Appellant is only an operational creditor, we are of the view that the distinction sought to be raised by the respondent is not relevant. What is

relevant is the judgment of the Hon'ble Supreme Court, where explanation as noted in paragraph 4 has been accepted and the delay was condoned. In the present case, there is no dispute that order was uploaded on 28.10.2025. Learned counsel for the appellant has also referred to the order passed in the appeal filed by respondent No. 2 being Comp. App. (AT) (Ins.) No.1828/2025. In Comp. App. (AT) (Ins.) No.1828/2025 on 24.11.2025, following order was passed by this Tribunal:

“I.A. No. 7116/2025

This is an application praying for 13 days delay in filing the appeal. It is stated in the application that order was uploaded on 28.10.2025 and thereafter appellant found an error in the direction and then copy was applied delay has occasioned of 13 days due to above reason.

We have heard counsel for the appellant, Shri U.N. Singh, counsel appearing for Greater Noida Authority and counsel for the RP. We find sufficient cause shown in the application. Delay condoned.

CA (AT) (Ins) No. 1828 of 2025

Issue Notice to the Respondents through Speed Post as well as Email. Requisites along with process fee, if not filed, be filed within two days.

Shri U.N. Singh, Counsel appearing for Greater Noida Industrial Development Authority has accepted notice.

Counsel for R1 also appears and accepts the notice.

Issue notice to Respondent Nos. 2, 3 & 4.

Let Reply be filed within two weeks. Rejoinder, if any, may be filed within two weeks, thereafter.

*List this appeal on **08.01.2026.**”*

17. Respondent No. 2 has also filed an appeal against the same order dated 06.10.2025 and prayed for condonation of delay and it is noted in the order

dated 24.11.2025 that respondent No. 2 himself pleaded before the Court that order was uploaded on 28.10.2025.

18. In the facts of the present case, we are of the view that appellant is entitled for the benefit of the judgment of the Hon'ble Supreme Court in '***Omkara Assets Reconstruction Private Limited***' (**supra**), and following the said judgment, we are of the view that delay in filing the appeal need to be condoned which computed from date of uploading is within condonable period.

19. Hence, the delay condonation application is allowed. Appeal is entertained without the certified copy of the order. However, the appellant is granted two weeks' time to place the certified copy of the order on record.

20. I.A. No. 235/2026 is allowed accordingly.

Comp. App. (AT) (Ins.) No. 67/2026

List the appeal on **10th July, 2026**.

**[Justice Ashok Bhushan]
Chairperson**

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

NEW DELHI

22nd May, 2026

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