

the corporate debtor, viz., Samson and Sons Builders and Developers Pvt. Ltd., also claimed to be its financial creditor and sought to challenge the approval of the appellant's resolution plan.

3. Respondent No.1's appeal, e-filed on 28.09.2024, was with delay and IA No. 1164 of 2025 was filed by her seeking condonation of the delay of 15 days in its presentation. While so, on 04.10.2024, the Registry of the NCLAT communicated the defects in the said appeal. The defects were supposedly rectified with delay and an application in IA No. 1165 of 2025 was filed seeking condonation of the delay of 150 days in the refiling of the appeal after the curing of defects.

4. The two delay condonation applications were taken up together on 10.11.2025 by the NCLAT. Though the appellant opposed the condonation of such delay, the NCLAT opined that, insofar as the delay in refiling was concerned, condonation thereof was a matter exclusively between it and the appellant. Holding so, the NCLAT condoned the delay of 150 days in the refiling of the appeal, upon deposit of costs of ₹50,000/- with the Prime Minister's Relief Fund. As regards the delay in filing, the NCLAT observed that the same was within the permissible upper limit of 45 days, stipulated under the *proviso* to Section 61(2) of the Code. Both the IAs were accordingly allowed, *vide* order dated 10.11.2025. It is this common order dated 10.11.2025 passed by the NCLAT which is subjected to challenge before us presently.

5. Taking note of the fact that the appeal in question was filed before the NCLAT with defects, this Court called for the relevant record from the Registry of the NCLAT. Pursuant thereto, Scrutiny Report dated 27.05.2025 pertaining to the subject appeal was forwarded by the NCLAT. Therein, the Registry noted that the period of limitation for filing the appeal, being 30 days, expired on 13.09.2024 and the condonable delay thereafter, being 15 days, was till 28.09.2024. The appeal was e-filed by respondent No. 1 on the very last day, that is, 28.09.2024. The defects in the appeal were intimated by the Registry on 04.10.2024. The appeal was refiled only on 10.03.2025, though the time stipulated under Rule 26(2) of the National Company Law Appellate Tribunal Rules, 2016², for curing of defects is only 07 days. However, the Registry of the NCLAT found that defects galore still remained uncured. The defects that were noticed by the Registry even after the refiling of the appeal were as under: -

- '1. Appeal should be in chronological order: Memos of parties, Synopsis, List of dates & Events, Memorandum of Appeal, Certified copies of the Impugned order
2. IA to be filed after Dates and events & Rule provision not mentioned
3. Appellant should be signed in IA Papers
4. IA not reflect in the e portal
5. Vakalath to be duly stamped
6. Appeal not in the format of NCLAT – I
7. Certified copy of the impugned order to be filed or IA with requisite court fee to be filed
8. IA with requisite court fee to be filed for delay in refiling for the period 04.10.2024 to 10.03.2025
9. Payment details to be filed after proof of service
10. In Memo of parties counsel sign not furnished'

² For brevity, 'NCLAT Rules'

6. In effect, even after the refiling of the appeal on 10.03.2025, one of the glaring defects that still remained was that a certified copy of the order dated 14.08.2024, sought to be impugned in the appeal, was not filed. No doubt, delay in refiling of a proceeding would, ordinarily, not be tested by the same strict standards that would be applied to delay in the filing of such proceeding but we find that, in the case on hand, the appeal which was refiled by respondent No. 1 was defective beyond redemption. Defect No. 07, noted *supra*, indicates that the appeal was refiled without a certified copy of the order dated 14.08.2024 passed by the NCLT.

7. Rule 22 of the NCLAT Rules pertains to presentation of appeals. Rule 22(2) categorically states that every appeal shall be accompanied by a certified copy of the impugned order. In this regard, the 3-Judge Bench decision of this Court in ***V. Nagarajan vs. SKS Ispat and Power Limited and others***³ assumes significance. Therein, this Court noted that the parties could not automatically dispense with their obligation to apply for and obtain a certified copy for filing an appeal under Rule 22. It was further noted that a person wishing to file an appeal is expected to file an application for the certified copy before the expiry of the limitation period, upon which 'the requisite time' for obtaining the certified copy is liable to be excluded while computing limitation. Further, it was observed that

³ (2022) 2 SCC 244

though Rule 14 of the NCLAT Rules enabled parties being exempted from compliance with the requirement of the rules and though waiver on the filing of an appeal with a certified copy is often granted, it does not confer an automatic right on the applicant to dispense with compliance and render Rule 22(2) of the NCLAT Rules nugatory. This Court, therefore, held that the act of filing an application for a certified copy is not just a technical requirement for computation of limitation but an indication of the diligence of the party in pursuing the litigation in a timely fashion.

8. In the case on hand, as stated earlier, a certified copy of the NCLT's order dated 14.08.2024, that was sought to be appealed against by respondent No. 1, was not filed along with the refiled appeal but long thereafter. Perusal of the photocopy of the said certified copy reflects that respondent No. 1 applied for the same only on 21.04.2025 and though the certified copy was prepared on 24.04.2025, it was not collected till 12.06.2025. Therefore, on 10.03.2025, when it was refiled, the appeal was not accompanied by a certified copy of the order dated 14.08.2024.

9. Given the strict timelines provided in the Code, which were held to be of essence by this Court (See ***Ebix Singapore Private Limited vs. Committee of Creditors of Educomp Solutions Limited and another***⁴), we may note that respondent No. 1 chose to e-file an appeal

⁴ (2022) 2 SCC 401

against the order dated 14.08.2024 on the very last day available to her, in terms of the limitation prescribed under the *proviso* to Section 61(2) of the Code. However, the filing of such appeal, without even applying for a certified copy of the order dated 14.08.2024, practically meant that there was no filing of an appeal in the eyes of law. As pointed out by this Court, a diligent litigant is expected to apply for a certified copy of the order sought to be appealed against before the period of limitation runs out and, by doing so, such litigant would be entitled to seek exclusion of the time taken to procure the certified copy for the purpose of limitation.

10. However, as noted earlier, respondent No. 1 did not even apply for a certified copy of the NCLT's order dated 14.08.2024 till 21.04.2025, long after the refiling of the appeal on 10.03.2025. To make matters worse, respondent No.1 did not even choose to file an application for exemption from filing such certified copy at any point, be it at the time of filing the appeal on 28.09.2024 or its refiling on 10.03.2025. This was the minimum requirement for respondent No. 1 to have complied with, when she filed and refiled her appeal without a certified copy of the NCLT's order dated 14.08.2024. Any such application could have been considered by the NCLAT under Rules 14 and 15 of the NCLAT Rules to enable the filing of the certified copy by respondent No.1 within such further time as is stipulated by the NCLAT. In effect, the appeal, as filed and refiled, was not a merely defective appeal, wherein the defects could be cured, but was a

wholly incompetent appeal that did not satisfy the essentials to pass muster, in terms of the requirements prescribed under the Code and the NCLAT Rules. However, the NCLAT totally lost sight of these vital aspects while considering the two applications filed by respondent No. 1 seeking condonation of delay in the filing and the refiling of the appeal. The NCLAT ought not to have extended such indulgence to respondent No. 1, without first ascertaining whether her appeal was instituted in accordance with the norms. We find that the NCLAT failed to undertake this exercise.

11. On the above analysis, we hold that the filing/refiling of the appeal by respondent No. 1 was incurably tainted and the same ought to have been rejected at the threshold. The order dated 10.11.2025 passed by the National Company Law Appellate Tribunal, Chennai, in IA Nos. 1164 and 1165 in Company Appeal No. (AT)(CH)(Ins) No. 252 of 2025 is, accordingly, set aside.

The appeals are allowed, in the aforesaid terms.

Parties shall bear their own costs.

....., J.
SANJAY KUMAR

....., J.
K. VINOD CHANDRAN

May 12, 2026
New Delhi.