

**INSOLVENCY & BANKRUPTCY**

The 60-Day Wall: Supreme Court Affirms Inflexible Limitation Regime Under Section 62 of the IBC

The Insolvency and Bankruptcy Code, 2016, stands as a paradigm of legislative intent favouring expedition, finality, and discipline in the resolution of corporate insolvency. The Supreme Court of India, in CA Ramchandra Dallaram Choudhary (Liquidator) v. Adani Infrastructure & Developers Pvt. Ltd., [(2026) ibclaw.in 428 SC], delivered on 1st June 2026 by a Bench comprising [...]

AUTHOR Abdullah Qureshi, Rahul Sundaram

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The Insolvency and Bankruptcy Code, 2016, imposes strict timelines designed to secure expedition and finality in corporate insolvency resolution. The Supreme Court of India, in *CA Ramchandra Dallaram Choudhary (Liquidator) v. Adani Infrastructure & Developers Pvt. Ltd.*, [(2026) ibclaw.in 428 SC], delivered on 1st June 2026 by a Bench comprising Mr. Justice Dipankar Datta and Shri Justice Satish Chandra Sharma, has once again emphasised the absolute and non-negotiable character of the limitation regime under the Code. The appeal, bearing Diary No. 5988 of 2026, arose from an order dated 8th December 2025 passed by the National Company Law Appellate Tribunal, Principal Bench at New Delhi, in Company Appeal (AT) (Ins) No. 2316 of 2025. The corporate debtor in liquidation was Anil Ltd., and the appellant before the Supreme Court was its Liquidator, CA Ramchandra Dallaram Choudhary. The respondent was Adani Infrastructure & Developers Pvt. Ltd. The judgment is significant for its disposal of the instant appeal, and for the unequivocal message it sends to the insolvency fraternity: the timelines under the IBC are not guidelines to be observed in the breach, but statutory walls that admit no scaling.

The factual matrix leading to the appeal is layered and instructive. The NCLT had passed an order on 21st June 2024, which the Liquidator sought to challenge before the NCLAT by filing an appeal under Section 61 of the IBC. That appeal itself was delayed and defective, and the NCLAT, by its order dated 6th February 2025, declined to condone the delay. The Liquidator thereupon approached the Supreme Court under Section 62, and by its order dated 5th May 2025, a coordinate Bench of the Court set aside the NCLAT's order and remanded the matter for decision on merits. The NCLAT thereafter proceeded to hear and dispose of the appeal, delivering the impugned judgment on 8th December 2025. Crucially, while passing its order of 5th May 2025, the Supreme Court had expressly recorded that the indulgence shown was not to be treated as a precedent. The Liquidator, having availed the benefit of this liberal construction once, then filed the present appeal under Section 62 against the NCLAT's final order. The appeal was presented on 29th January 2026, seven days beyond the forty-five-day period prescribed under Section 62(1) but within the fifteen-day grace period under Section 62(2). An application for condonation of this seven-day delay was filed. Additionally, the Registry marked the appeal defective, and upon curing the defects, the appeal was re-filed after a further delay of eighty-two days, for which a separate condonation application was also filed. It is this concatenation of delays that formed the sole subject matter of the Court's adjudication.

The appellant pressed several submissions before the Bench. He contended that the appellant, being a neutral officer acting under the aegis of the Supreme Court for the benefit of all stakeholders and the corporate debtor, deserved a liberal rather than strict approach. He argued that the insignificant delay in initial filing and the re-filing delay, though substantial, ought to be viewed leniently given the appellant's status. He further submitted that under the Supreme Court Rules, 2013, delay in re-filing after curing defects is treated on a different footing from delay in initial filing, and that if the initial appeal was filed within the prescribed or extended period, the Court should generally condone both filing and re-filing delays upon sufficient cause being shown. He placed strong reliance on the earlier coordinate Bench decision between the same parties in], where re-filing delay in a Section 61 appeal before the NCLAT was condoned, and cited the principle that court's view applications relating to lawyer's lapses more leniently than those relating to litigant's lapses. The explanation tendered for the eighty-two-day re-filing delay was that an internal oversight within the Liquidator's office had occurred; a concerned officer either mistakenly believed that requisite details had already been conveyed or failed to promptly relay them to the Advocate-on-Record, and this officer had since left service, creating a communication gap. The delay, it was asserted, was neither intentional nor negligent but arose from a bona fide administrative lapse.

The Court, however, was unpersuaded. It commenced its analysis by restating the foundational principle that the scheme of limitation under the IBC is strict and time-bound, and that the concept of condonation of delay is alien to the statutory framework beyond the period expressly contemplated by the legislature. Section 62 permits an appeal to be filed within forty-five days, with a further grace period of only fifteen days upon sufficient cause being shown, rendering the outer limit sixty days beyond which the appeal is barred and the Court's jurisdiction to condone is ousted. The Court drew upon a rich tapestry of precedent to reinforce this position. In *Mobilox Innovations (P) Ltd. v. Kirusa Software (P) Ltd.* [(2017) ibclaw.in 01 SC], the Court had held that strict adherence to these timelines is of the essence to both the triggering process and the insolvency resolution process. In *Kalparaj Dharamshi v. Kotak Investment Advisors Ltd.*, the Court reiterated that time-bound resolution is the essence of the IBC and that the commercial wisdom of the Committee of Creditors enjoys critical status without judicial intervention to ensure completion within prescribed timelines. The decisions in *National Spot Exchange Ltd. v. Dunar Foods Ltd. (Resolution Professional)*], *V. Nagarajan v. SKS Ispat & Power Ltd.*, and *Tata Steel Limited v. Raj Kumar Banerjee* were cited as reaffirming that condonation of delay beyond the period expressly prescribed by the statute is impermissible. The Court found particular resonance in *PEC Ltd. v. M/s Phulchand Exports Private Ltd.*, where a delay of twenty-one days in filing a Section 62 appeal was

held to be beyond the maximum condonable period, resulting in dismissal. Even more tellingly, in *Saturn Ventures and Advisors Pvt. Limited v. S. Gopalakrishnan* [(2025) ibclaw.in 487 SC], a delay of merely two days in presentation of a Section 62 appeal was not condoned, the Court holding that it possessed no power to condone such delay.

The Court then turned to the interplay between the IBC and the Supreme Court Rules, 2013. Sub-rules (3) and (4) of Rule 6 of Order VIII, SCR, prescribe a regime for re-filing petitions and appeals after curing defects, earmarking twenty-eight days for such curing. The Court posed the central question to Mr. Fernandes: whether, where an appeal under Section 62 is filed within time or within the grace period but is marked defective, this Court can condone the delay in re-filing when defects are not cured within twenty-eight days. The Court answered this in the negative with compelling logic. It held that an appeal under Section 62 to be regarded as instituted within the prescribed period must be a defect-free appeal capable of being acted upon by the Registry for immediate placement before the appropriate Bench. Any appeal not filed within the stipulated period in a form shorn of defects remains, for all practical and legal purposes, a defective appeal. The Court posed two rhetorical questions: can or should a litigant be permitted to circumvent the rigours of limitation by filing a defective appeal as a device to save limitation and thereafter opt to cure notified defects at leisure? Can or should this Court countenance such a practice? The answer to both, the Court declared, must be a resounding no, for to hold otherwise would defeat the object of the IBC and render nugatory the discipline of timelines engrafted in both Section 62 and the SCR. The Court held that no litigant can be permitted to subvert the statutory scheme by seeking condonation of re-filing delay beyond twenty-eight days after having initially lodged a defective appeal. Once the window of sixty days prescribed by the IBC, followed by the window of twenty-eight days for re-filing upon curing of defects permitted by the SCR, is shut, the right to appeal stands extinguished.

The Court further rejected the argument that the SCR does not impose a cap beyond which re-filing delays cannot be condoned. It held that the SCR is subordinate legislation, and whenever the IBC and the SCR clash, the latter cannot override the express provisions of the former. The IBC must prevail as the statutory edict. While the standards for examining a prayer for condoning re-filing delay may be less rigorous than for filing delay under general laws such as the Codes of Civil and Criminal Procedure or constitutional remedies, Section 62 of the IBC is a complete code in itself for filing of appeals and is different from other laws. An appeal under Section 62 does not remain alive after the twenty-eight-day period allowable under the SCR for curing defects, and the lis stands frozen once defects are not cured within such period. The Court also rejected the invocation of Article 142, holding that the appellant's status as a neutral officer was insufficient to warrant dilution or override of the express statutory timeframes, and that reading words into the statute which the legislature did not use would not be a permissible interpretational exercise.

The Court then distinguished the earlier coordinate Bench decision. It recapitulated the peculiar factual matrix of that appeal: the appellant had challenged an NCLT order before the NCLAT under Section 61, the NCLAT had declined condonation, and this Court set aside that order and remanded the matter for merits, specifically recording that such order was not to be treated as a precedent. The Court observed that the present case stands on an entirely different pedestal, for the appellant seeks condonation of re-filing delay and of delay in invoking the appellate jurisdiction of this Court under Section 62, and approaches this Court after having availed the benefit of a liberal construction of sufficient cause at the previous stage. A litigant who has once secured indulgence, the Court held, cannot legitimately proceed on the assumption that further defaults at the next appellate stage would automatically attract similar discretion. To hold otherwise would render the law of limitation under the IBC progressively elastic at every successive stage of challenge, defeating the legislative objective of expedition and finality. The discipline of limitation, particularly in the context of the IBC, does not countenance serial condonations across successive appellate stages.

The Court also found, upon perusal of the applications seeking condonation, that sufficient cause had not been shown to satisfactorily explain the delays. Absent any cogent or convincing justification, the delays in both the filing of the defective appeal and the re-filing were not liable to be condoned. The Court summed up the legal position beyond cavil: forty-five days is available under Section 62(1), a further fifteen days under Section 62(2) upon sufficient cause, making the outer limit sixty days; curing of defects is permissible within twenty-eight days of notification; there being no scope for curing defects after lapse of twenty-eight days in respect of a Section 62 appeal, no question of condonation arises even for a day beyond sixty days or twenty-eight days, as the case may be. Where the statute itself erects an insurmountable jurisdictional bar, no enquiry into the adequacy of the cause shown would alter the legal consequence that inexorably follows.

The Supreme Court dismissed the defective appeal as time-barred, having been filed beyond the maximum period condonable in terms of the IBC, and disposed of all connected applications. The Court wisely refrained from commenting on the correctness or otherwise of the impugned NCLAT judgment, since the appeal stood dismissed on the threshold ground of limitation. This judgment is a clarion call to practitioners and litigants alike: the IBC's limitation regime is not a flexible standard but an absolute

boundary, and no amount of procedural ingenuity, administrative explanation, or repeated invocation of judicial discretion can breach its walls. The sixty-day ceiling under Section 62, coupled with the twenty-eight-day defect-curing period under the SCR, forms an impermeable barrier that protects the integrity of the insolvency resolution process and ensures that the Code's foundational promise of time-bound resolution is not sacrificed at the altar of individual indulgence.

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