

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL**  
**PRINCIPAL BENCH, NEW DELHI**

**Company Appeal (AT) (Insolvency) No. 734 of 2024**

**IN THE MATTER OF:**

**Indian Bank.**

**...Appellant**

**Versus**

**Gaurav P Hinduja**

**...Respondent**

**Present:**

**For Appellant : Mr. Ashish Rana, Advocate.**

**For Respondent : Mr. Karan Suneja, Advocate for R-1.**

**O R D E R**  
**(Hybrid Mode)**

**08.11.2024:** In this appeal notices were issued on 01.05.2024. Order passed in the appeal on 01.05.2024 is as follows:

**“ORDER**  
**(Hybrid Mode)**

**01.05.2024:** **I.A. No. 2617 of 2024**

*1. This is an application praying for condonation of 14 days delay in filing the Appeal.*

*2. Learned Counsel for the Appellant submits that after the order was passed, time was taken in obtaining approval from the Bank Authorities and thereafter Appeal was prepared.*

*Cause shown sufficient. Delay is condoned.*

**Comp. App. (AT) (Ins.) No. 734 of 2024**

*1. Learned Counsel for the Appellant submits that Section 95 application filed by the Appellant has been rejected on the ground that it is barred by time.*

*Cont'd.../*

*2. Counsel for the Appellant submits that the Adjudicating Authority has not extended the benefit of Judgment of the Hon'ble Supreme Court in **Suo Moto Writ Petition (Civil) No. 3 of 2020** in the matter of 'Re: Cognizance for Extension of Limitation' and in view of the aforesaid Judgment of the Hon'ble Supreme Court, the application was within time.*

*3. Issue Notice.*

*4. Let Reply be filed within three weeks. Rejoinder be filed within further two weeks.*

*List this Appeal on **19<sup>th</sup> July, 2024.***

2. Notices were returned back then by order dated 18.09.2024, the Appellant was permitted to effect service on the Respondent by publication in two newspapers. An affidavit of service has been filed by the Appellant bringing on record the paper publication dated 18.10.2024. Notices have been published in the newspapers but no one has appeared for the Respondents. We hold the service sufficient and proceed to hear the Appellant on merits.

3. Learned counsel for the Appellant submits that the Adjudicating Authority has rejected the application filed under Section 95(1) by the Indian Bank as barred by time. It is submitted that the Adjudicating Authority in the impugned order has treated the date of recovery certificate issued by DRT i.e. 13.11.2019 as date of commencement of limitation and it was held that application filed on 17.01.2024 is barred by time.

4. Learned counsel for the Appellant submits that the limitation for filing the application shall not expire on 17.01.2024 as opined by the Adjudicating Authority in view of the order passed by the Hon'ble Supreme Court in *Suo Moto Writ Petition (Civil) No.3 of 2020*. Learned counsel for the Appellant has referred to order dated 10.01.2022 passed by the Hon'ble Supreme Court, Para 5(I), which is as follows:

*“I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi-judicial proceedings.”*

5. The order of the Hon'ble Supreme Court clearly directed that period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation. When we exclude the aforesaid period, the limitation for filing application does not expire on 17.01.2024 as opined by the Adjudicating Authority and the limitation period shall be there till 29.10.2024, as submitted by learned counsel for the Appellant. We, thus are of the view that the Application filed by the Indian Bank ought not to have been rejected on the ground of limitation.

6. We, thus, set aside order dated 13.02.2024 and revive application filed under Section 95 by Indian Bank before the NCLT, Ahmedabad to be heard and decided in accordance with law.

7. The Personal Guarantor having not appeared, the Adjudicating Authority may issue fresh notice to the Personal Guarantor before proceeding further. Appeal is disposed of.

**[Justice Ashok Bhushan]**  
**Chairperson**

**[Arun Baroka]**  
**Member (Technical)**

*Archana/nn*