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Pronouncement, Upload, or Communication? The Juridical Trigger for Limitation under Section 61 IBC

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ABSTRACT

In order to uphold the time-bound resolution objective of the Insolvency and Bankruptcy Code, appeals must be submitted within a certain deadline. Pursuant to this, Section 61 stipulates a rigid timeline of thirty days, extendable by fifteen days if sufficient cause is shown, beyond which no further condonation is permissible. While this framework reinforces the Code's time-bound philosophy, ambiguity persists regarding the point at which the limitation period begins: whether from the date an order is pronounced in open court or from the date it is communicated or uploaded to the parties. The problem arises due to frequent administrative delays in uploading or serving orders, coupled with inconsistent judicial interpretations.

The Supreme Court in V. Nagarajan v. SKS Ispat & Power Ltd. (2021) held that limitation runs from the date of pronouncement, regardless of when the party receives the written order. This strict approach was reaffirmed in Tata Steel Ltd. v. Raj Kumar Banerjee (2025), which treated the 45-day outer limit as jurisdictional. However, this position

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often deprives litigants of their statutory right to appeal, as they may be unaware of the precise contents of the order or receive it after substantial delay. The paper critically argues that the limitation period must begin only once the order is made available to the affected party, as computation from an oral pronouncement would violate the principles of natural justice. The current framework not only contradicts Sections 12 and 5 of the Limitation Act, 1963, and the NCLT Rules mandating communication of free copies, but also creates procedural inequity. The analysis demonstrates that India's rigid approach, unlike the U.S. system where limitation runs from docket entry, fails due to weak institutional practices and inconsistent communication.

To address these issues, the paper recommends: first, statutory clarification in Section 61 defining "date of order" as the date the signed order is made available or uploaded; second, uniform treatment of free and certified copies for exclusion of time; third, mandatory digital communication of signed orders; and last, establishment of specialised insolvency courts with bespoke procedural rules. Collectively, these measures would harmonise procedural efficiency with fairness while ensuring that the IBC's time-bound mandate does not compromise the right to appeal.

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I. INTRODUCTION

The concept of 'limitation period' ensures that an aggrieved party files any application, suit or appeal before the Court within a prescribed time.[1] It also empowers the Court to reject such suit, appeal, or application solely on the ground that it has been filed after the expiry of the limitation period, rendering it time barred. [2]

Under the Insolvency and Bankruptcy Code, 2016 (**IBC**), the objective is to provide a time-bound and efficient resolution process for corporate persons, partnerships, firms and individuals.[3] Therefore, the limitation period plays a vital role. Under Section 61 of the Code, an appeal can be filed against an order of the adjudicating authority, particularly the National Company Law Tribunal (**NCLT**).[4] The timeline prescribed under Section 61 is thirty days from the date of the order.[5] After the expiry of thirty days, a further period of fifteen days may be granted if sufficient cause is shown by the Appellant for the delay in filing the appeal and if found satisfactory by the National Company Law Appellate Tribunal (**NCLAT**), it permits.[6] This timeline is mandatory in nature and cannot be extended beyond forty-five days under any circumstances.[7]

The conundrum arises with respect to which date triggers the limitation period under Section 61 of the Code, whether it is the date on which the order is pronounced in the court or the date on which the order is

[1] *Union of India v West Coast Paper Mills* [2004] 2 SCC 458.
[2] *Roshanlal Kuthalia v R. B. Mohan Singh Oberai* [1975] 2 SCR 491.
[3] Per the long title of the Insolvency and Bankruptcy Code2016.
[4] Insolvency and Bankruptcy Code 2016, s 61.
[5] Insolvency and Bankruptcy Code 2016, s 61(2).
[6] Ibid.
[7] National Company Law Appellate Tribunal Rules 2016, r 15.

uploaded on the website. The following (**Table A**) depicts the delay between the date of pronouncement and the date of upload or communication in some cases, which impacts the limitation period for appeals under Section 61 of the Code.

Table A: Delay between pronouncement and communication

S. No	Case Name	Pronouncement Date	Upload/ Communication Date	Days Delay
1.	**Sagufa Ahmed v. Upper Assam Plywood Products** [8]	25. 10. 2019	19. 12. 2019	55 days
2.	**V Nagaranjan v. SKS Ispat & Power Ltd.**[9]	31. 12. 2019	12. 03. 2020	72 days
3.	**Sanket Agarwal v. APG Logistics** [10]	26. 08. 2022	15. 09. 2022	20 days
4.	**Sanjay Pandurang**	17. 05. 2023 (no formal pronouncement)	30. 05. 2023	13 days

[8] *Sagufa Ahmed v Upper Assam Plywood Products* [2021] 2 SCC 317.
[9] *V. Nagarajan v SKS Ispat and Power Ltd* [2022] 2 SCC 244.
[10] *Sanket Kumar Agarwal v APG Logistics (P) Ltd* [2024] 2 SCC 545.

	Kalate v. Vistra ITCL [11]			

The issue arises because, although there is often a delay on the registry's part in communicating the order to the aggrieved party, courts have repeatedly held that the limitation period under Section 61 of the IBC is triggered from the date the order is **pronounced in open court**, not from the date it is **uploaded on the website**. In *Tata Steel Ltd. v. Raj Kumar Banerjee*, the Supreme Court (**SC**) reaffirmed this principle, clarifying that limitation begins from the date of pronouncement. However, in situations where no pronouncement is made and the order is only uploaded online, the limitation period commences from the date of such uploading.[12]

The jurisprudence on this issue remains inconsistent and unreliable. Judgments such as *Sanjay Pandurang Kalate v. Vistra ITCL* have held that the limitation period should commence once the order is uploaded on the website or delivered to the concerned party.[13] Conversely, decisions such as *A. Rajendra v. Gonugunta Madhusudhan Rao* have taken the view that if an order is pronounced in open court, the limitation period begins from the very date of pronouncement.[14] The stance taken by the Courts, that limitation is triggered from the date an order is pronounced in open court, rather than when it is communicated to the parties, is problematic as limitation period can only commence once the

[11] *Sanjay Pandurang Kalate v Vistra ITCL (India) Ltd* [2024] 248 Comp Cas 625.
[12] *Tata Steel Ltd. v Raj Kumar Banerjee* [2025] 257 Comp Cas 146.
[13] *Sanjay Pandurang Kalate* (n 11).
[14] *A. Rajendra v Gonugunta Madhusudhan Rao* Civil Appeal No. 11071 of 2024.

affected parties have been duly notified of the court's decision.[15] To hold otherwise would be to deny the appellants their fundamental right to seek redress, as they cannot be expected to challenge a judgment of which they had no prior knowledge.

In this context, this paper argues that orders pronounced in open court constitute mere oral dictations, and it is impermissible to compute the limitation period from the date of such oral pronouncement. This is because oral dictations are often edited or corrected before the final signed order is made available and may differ from what was orally pronounced. Structurally, this paper is divided into three parts: **Part I** analyses the Indian jurisprudence on the issue, outlining the conflicting judicial stances and comparing them with the international perspective. **Part II** examines how the current approach violates principles of Natural Justice and impedes the rights of parties. **Part III** presents suggestions and emphasises the necessity of establishing a definitive and uniform framework.

II. OVERVIEW OF SECTION 61 AND JUDICIAL PRECEDENTS

The rigid timeline under Section 61 reflects the objective of the Code for speedy and time-bound resolution, ensuring finality of insolvency proceedings. In this regard, judicial rulings have consistently held that the 30 + 15-day limit is mandatory and jurisdictional. This strict framework of Section 61 sets the stage for judicial scrutiny on how limitation is to be computed in appeals under the IBC.

[15] *State of Maharashtra v ARK Builders* [2011] 4 SCC 616.

A. Early Jurisprudence

The early NCLAT decisions on Section 61 produced divergent reasoning on the commencement of limitation. *In Prowess International Pvt. Ltd. v. Action Ispat & Power Pvt. Ltd. (2018)*[16], the tribunal drew a distinction between Section 421 of the Companies Act, which explicitly ties limitation to the date a copy of the order is made available, and Section 61 IBC, which omits such wording. It concluded that under IBC the period runs from the date of knowledge of the order, but since counsel for the appellant was present at pronouncement, knowledge and pronouncement coincided, making the appeal time barred. In *Shashi Mohan Garg v. International Asset Reconstruction Co. (2019)*[17], an appeal delayed by 270 days was rejected despite the appellant's plea of lack of knowledge, the NCLAT holding that service of notice and the order sheet established knowledge and that delay beyond 45 days could not be condoned. Subsequently, in *Dhiren Dave v. Pantomath Capital Advisors Pvt. Ltd.*[18], the NCLAT relied on *Prowess International* to insist that limitation begins strictly from pronouncement, overlooking the factual nuance in *Prowess* where knowledge and pronouncement were simultaneous.

Then came the decision in *Kalpraj Dharamshi & Anr. v. Kotak Investment Advisors Ltd. & Anr.*[19] The controversy arose when Kotak

[16] *Prowess International (P) Ltd v Action Ispat and Power (P) Ltd* [2018] SCC OnLine NCLAT 644 .
[17] *Shashi Mohan Garg v International Asset Reconstruction Co,* Company Appeal (AT) (Insolvency) No 123 of 2019.
[18] *Dhiren Dave v Pantomath Capital Advisors Pvt. Ltd*, Company Appeal (AT) (Insolvency) No 40/2019.
[19] *Kalpraj Dharamshi and Anr. v Kotak Investment Advisors Ltd & Anr* [2021] 10 SCC 401.

Investment Advisors (**KIAL**) challenged the approval of a resolution plan submitted by Kalpraj Dharamshi before the NCLAT. The appeals, however, were filed well beyond the thirty days plus fifteen days permitted under Section 61(2). KIAL sought to justify the delay by relying on the fact that it had initially pursued its remedy before the Bombay High Court under Article 226 and argued that the time spent in *bona fide* prosecution before a wrong forum ought to be excluded under Section 14 of the Limitation Act, 1963. The SC rejected this argument and observed that the IBC is a complete code in itself, designed to secure expeditious insolvency resolution. Consequently, the strict timelines prescribed in Section 61 cannot be circumvented by importing provisions such as Section 14 of the Limitation Act. The Court held that once the outer limit of forty-five days has passed, the right of appeal is extinguished and NCLAT has no jurisdiction to entertain such appeals[20] Importantly, the Court observed that sophisticated litigants like financial institutions cannot claim ignorance of alternate remedies under the IBC and cannot justify delay on that ground. Ultimately, the judgment thus laid down two foundational principles. Firstly, that the outer limit of appeal under Section 61 is non-negotiable. And secondly, that litigants cannot rely on equitable doctrines like Section 14 Limitation Act to enlarge this period and therefore, represents the Court's initial step towards closing off procedural flexibility and insisting on strict adherence to timelines provided under the Code.

[20] Ibid [27]–[31].

B. V. Nagarajan v. SKS Ispat (2021): Reasoning of the Court

The Supreme Court in *V. Nagarajan* delivered by Justice D.Y. Chandrachud undertook a detailed examination of when the limitation period under Section 61 IBC begins to run, and whether an appellant can wait for the "free certified copy" under Section 420(3) of the Companies Act read with Rule 50 of the NCLT Rules before filing an appeal.[21] The appellant, acting as liquidator, was present when the NCLT pronounced its order on 31 December 2019. However, he filed his appeal only on 8 June 2020, contending that limitation had not commenced since the corrected copy of the order was uploaded later and a free copy had not been issued to him. The NCLAT dismissed the appeal as time-barred, and the Supreme Court affirmed this dismissal. The Court held that Section 61(2) is couched in strict terms, which is 30 days plus a further 15 days only if sufficient cause is shown. It emphasised that this outer limit cannot be diluted by importing general provisions of the Limitation Act beyond what is expressly permitted.[22] Further it was observed that where a party is present when the order is pronounced, knowledge of the order is deemed to exist from that date itself. Therefore, limitation runs from the pronouncement, not from when a free copy is issued.[23] Rule 50 of the NCLT Rules (obligation to issue free copies) is only an administrative facilitation. It does not extend or suspend limitation. A litigant must apply for a certified copy to avail of Section 12 of the Limitation Act. Passive reliance on the registry's duty to send a free copy cannot be a ground to delay.[24] The Court stressed that the IBC's architecture requires

[21] *V. Nagarajan v SKS Ispat and Power Ltd* [2022] 2 SCC 244.
[22] Ibid [24].
[23] Ibid [27]–[29].
[24] Ibid [30]–[33].

speed and finality. Thus, allowing parties to indefinitely await free copies or procedural lapses would frustrate this objective. It applied the maxim *lex non cogit ad impossibilia* (the law does not compel the impossible) only narrowly, which implies a litigant cannot claim impossibility if he made no effort to secure the certified copy himself.[25] Hence, limitation under Section 61 commences once the order is pronounced and the party has knowledge of it. The requirement of the tribunal to provide a free copy under Section 420(3) of the Companies Act read with Rule 50 of the NCLT Rules cannot mean that an appellant can await such a copy indefinitely before filing an appeal. Therefore, it is incumbent on a litigant to apply for a certified copy to avail exclusion of time under Section 12 of the Limitation Act. When such diligence is absent, limitation begins from the date of pronouncement.[26]

The judgment, although provides clarity with respect to computation of limitation period, leaves several gaps regarding its implementation. The Court treats registry non-action (delay in upload / failure to send free copy) as the litigant's problem unless the litigant applied for a certified copy promptly. But in practice litigants often rely on registry uploads and free copies; registries have staffing, technical, and procedural constraints (especially during the pandemic). The judgment does not sufficiently grapple with how registry delays or erroneous uploads should be accounted for when a litigant has taken reasonable steps (e.g., requested the copy or relied in good faith on the registry). The Court asks for diligence but offers no bright-line guidance on what constitutes "sufficient effort" when a registry is silent or the portal shows a defective

[25] Ibid [39].
[26] Ibid [29]–[34], [39]–[42].

copy. The Court distinguishes *Sagufa Ahmed* (which allowed waiting for free copy under Companies Act procedure) but does not fully confront the policy reasons on which *Sagufa* rested i.e., that the registry's statutorily mandated duty to send a free copy authorises a litigant to await receipt. Justice Chandrachud says the omission in Section 61(2) is deliberate but does not analyse why the legislature would omit those words while still subjecting NCLT to the Companies Act framework (Chapter XXVII) and the rule-making powers that create Rule 50. The distinction feels cursorily drawn rather than deeply reconciliatory. The judgment repeatedly talks about "sophisticated financiers" but does not expressly protect natural persons, small creditors, or less-resourced litigants who may not know to file for certified copies or who rely on the registry. While policy requires speed, law should balance speed with procedural fairness for those who face structural disadvantages. The ruling does not provide a safety valve for such circumstances beyond the general "sufficient cause" concept, which the Court treats as narrowly circumscribed in IBC.

C. Post Nagarajan Judgment

After the decision in *V. Nagarajan v. SKS Ispat (2021)*, the jurisprudence around Section 61 IBC entered a phase of consolidation, where subsequent rulings reinforced the principle that time is of the essence and the 30 + 15-day limit is sacrosanct. The Court in *Safire Technologies Pvt. Ltd. v. Regional Provident Fund Commissioner*[27] reiterated that the NCLAT has no jurisdiction to entertain an appeal filed

[27] *Safire Technologies (P) Ltd v Provident Fund Commr*. [2022] SCC OnLine SC 2462.

even a single day beyond the forty-five days provided under Section 61(2). This echoed the Nagarajan ratio that litigants cannot rely on equitable considerations or administrative delays to extend limitation. Similarly, in *National Spot Exchange Ltd. v. Anil Kohli (2022)*[28], the Court stressed that the IBC's framework demands finality and certainty, holding that once the statutory period lapses, the right to appeal itself extinguishes; unlike under the Companies Act, 2013 or Civil Procedure Code, 1908, there is no residual discretion.

The Court also clarified procedural nuances in *Ajay Gupta v. Rajendra Singh Yadav*[29], where it was held that the benefit of Section 4 of the Limitation Act (extension when the last day falls on a holiday) would apply only if the tribunal's registry is genuinely closed. If the registry remains functional on a working Saturday, a party cannot claim extension, further underlining the rigid approach adopted post-Nagarajan. At the same time, the Court in *Ebix Singapore Pvt. Ltd. v. CoC of Educomp Solutions (2021)*[30], while not directly on Section 61, reinforced the philosophy that commercial certainty and time-bound resolution are paramount under the Code, and delay in legal remedies undermines that goal.

In its recent ruling, *Sanjay Pandurang Kalate v. Vistra ITCL (India) Ltd. (2023)*[31], the Supreme Court provided critical clarification. Here, although the NCLT's order bore the date of hearing (17.05.2023), it was

[28] *National Spot Exchange Ltd v Dunar Foods Ltd (Resolution Professional)* [2022] 11 SCC 761.
[29] *Ajay Gupta v Raju* [2016] 14 SCC 314.
[30] *Committee of Creditors of Educomp Solutions Ltd v Mahender Kumar Khandelwal* [2021] SCC OnLine NCLAT 5731.
[31] *Sanjay Pandurang Kalate* (n 11).

not pronounced that day but only uploaded on 30.05.2023. The Court held that limitation cannot commence without pronouncement and that in such cases, the date of upload equates to the date of pronouncement for limitation purposes.[32] Thus, limitation begins from the date the order is effectively pronounced and made public, not merely the date typed on the order. The Court also reaffirmed *Sanket Agarwal v. APG Logistics (2023)*[33] that e-filing stops limitation, and the time taken by the tribunal to provide a certified copy can be excluded if the appellant acts diligently. Taken together, these post-Nagarajan rulings produced a lack of doctrinal symmetry. In some instances, the Court treated limitation as a fixed mathematical rule; in others, it implicitly accepted that tribunal machinery, not litigant negligence, may justify adjusting the limitation start-point. The result was a jurisprudence moving towards consolidation, but still internally ambivalent about whether "time is of the essence" should be interpreted mechanically or in context.

However, in its recent pronouncements, the SC affirmed the stance of *V. Nagarajan* and provided with few more clarifications relevant for understanding the computation of limitation period under Section 61.

D. Latest Pronouncements

In *Tata Steel Ltd. v. Raj Kumar Banerjee*[34], the Supreme Court considered three key issues: whether the appeal filed on 23–24.05.2022 was beyond the 45-day ceiling under Section 61(2) IBC; whether Section 4 of the Limitation Act could be invoked when the last date fell on a

[32] Ibid [19]–[21].
[33] *Sanket Kumar Agarwal v APG Logistics (P) Ltd* [2024] 2 SCC 545.
[34] *Tata Steel Ltd v Raj Kumar Banerjee* [2025] 257 Comp Cas 146.

working Saturday; and whether limitation should run from the date of pronouncement (07.04.2022) or from subsequent disclosures (08.04.2022). The Court reaffirmed that Section 61(2) prescribes a strict scheme, which is 30 days plus 15 days only and beyond this, NCLAT has no jurisdiction to condone delay.[35] Relying on *V. Nagarajan*, it held that limitation begins from the date of order, rejecting the respondent's argument that knowledge through stock exchange disclosures should trigger limitation. On the application of Section 4, the Court clarified that the benefit applies only when the Tribunal is actually closed; since the NCLAT registry was open on 07.05.2022, the 30-day period ended that day, with the condonable period expiring on 22.05.2022. Therefore, the appeal filed on 23–24.05.2022 was clearly beyond the statutory maximum. The Court criticised the NCLAT for wrongly treating 07.05.2022 as a non-working day and thereby assuming power to condone beyond 45 days, which is impermissible under IBC.[36] Further, for the third issue, the Court dealt with subsequent disclosure. Subsequent disclosures refer to post-pronouncement communications, such as stock-exchange filings or public announcements made after the NCLT passes an order. The respondent argued that the resolution professional's delayed or defective disclosure postponed knowledge, but the Court sidestepped the issue by relying solely on the timestamped exchange notifications. The Court refused to integrate securities-law compliance into the limitation analysis. It reasoned that once there is evidence that disclosure was in fact made on the same day, limitation must run from pronouncement, and any reliance on later disclosures

[35]Ibid [8].
[36] Ibid [4.4].

would reintroduce subjectivity, create variability between similarly situated litigants, and undermine IBC's strict timelines. However, this reasoning exposes a structural weakness. By holding that limitation runs from pronouncement even when securities-law disclosures are delayed or defective, the Court effectively disconnects minority shareholders' ability to access information from their ability to pursue appellate remedies. This creates an asymmetry: resolution professionals are under a statutory obligation to disclose promptly, but their failure to do so has no bearing on limitation and imposes no legal consequence under the IBC framework. As a result, the ruling inadvertently weakens transparency enforcement as shareholders bear the cost of disclosure lapses, while resolution professionals face no impairment of the insolvency process for withholding or delaying material information.

Overall, the Supreme Court's decision in this judgment represents not merely an affirmation of the *Nagarajan* ratio but a heightened formalisation of IBC limitation jurisprudence, one that closes interpretive gaps but opens new systemic and doctrinal concerns. The Court's insistence that limitation must commence from the date of pronouncement, even for non-parties like minority shareholders, reflects a rigid, pronouncement-centric model that does not fully engage with the informational asymmetry inherent in insolvency proceedings. Unlike *Nagarajan*, which primarily dealt with a litigant present in court, Tata Steel involves a party not present, not notified, and not part of the proceedings, yet the Court applies the same standard thereby making no allowance for material barriers to knowledge. This is a conceptual leap that treats insolvency orders as constructively known to the world the

moment they are pronounced, disregarding the practical opacity surrounding CIRP processes.

Further, the most recent clarification on limitation under Section 61 IBC comes in *Ashdan Properties Pvt. Ltd. v. DSK Global Education*[37], where the Supreme Court reaffirmed the doctrinal framework laid down in *V. Nagarajan* and *Tata Steel*. While the case does not alter the substantive law, it significantly strengthens procedural rigor by holding that an appeal filed without a certified copy and without an accompanying application for exemption or condonation is not merely irregular but jurisdictionally defective.[38] The Court emphasised that the act of applying for a certified copy is itself a marker of diligence, and failure to do so within limitation forecloses appellate rights. Importantly, the Court curtailed NCLAT's reliance on Rules 14 and 15 by clarifying that exemptions cannot dilute the mandatory requirement under Rule 22(2) that every appeal "shall" be accompanied by a certified copy.[39] By setting aside the NCLAT judgment as a "superstructure erected on an illusory foundation," the Court has signalled that limitation and procedural compliance are threshold requirements that the appellate forum must scrutinise even before considering merits.[40]

A critical weakness exposed by *Ashdan Properties* is that the certified-copy requirement disproportionately burdens operational creditors and non-participating stakeholders who are often unaware of pronouncements until much later. These parties lack continuous

[37] *Ashdan Properties Pvt Ltd. v DSK Global Education* [2025] INSC 959 [5-7].
[38] Ibid [12]-[13].
[39] Ibid [9], [11]-[12].
[40] Ibid [13].

representation before the NCLT and cannot realistically apply for a certified copy within the limitation period unless they are informed in real time which is a structural deficiency that this judgment does not address. By insisting that the obligation to apply for a certified copy is the sole marker of diligence, the Court effectively penalises those who are structurally excluded from the information loop. A more equitable approach would have been to integrate the statutory free-copy mechanism into the limitation framework, ensuring that the clock begins only when the tribunal fulfils its duty of communication. This would preserve procedural discipline without sacrificing access to justice for less-empowered stakeholders.

III. COMPARATIVE INSIGHTS FROM THE UNITED STATES

Against this backdrop of India's increasingly inflexible limitation jurisprudence, it becomes instrumental to examine how other mature insolvency systems structure their appellate timelines. The United States is a particularly useful comparator because its bankruptcy regime is highly institutionalised, technologically robust, and globally regarded as the benchmark for procedural efficiency.[41] Hence, this section of the paper draws a comparative analysis between the insolvency framework of the USA and India.

The jurisprudence governing the time limit for filing an appeal from a U.S. bankruptcy court order is rooted in the Federal Rules of Bankruptcy Procedure, specifically Rule 8002[42]. This rule mandates a short,

[41] A V Pathania, *'Comparison between the IBC and USA's Chapter 11 Bankruptcy Code'* (2025) 22 IIPIC AI L Rev <https://www.iiipicai.in/wp-content/uploads/2025/01/22-28-Article.pdf> accessed 12 November 2025.
[42] Fed R Bankr P 8002.

jurisdictional deadline of 14 days from the entry of the judgment, order, or decree on the bankruptcy docket. The period is computed according to Rule 9006(a), which includes all calendar days, with an extension to the next business day only if the deadline falls on a weekend or legal holiday.[43] The commencement of the limitation period is triggered solely by the entry on the docket, not the court's pronouncement or the party's receipt of the order. This principle was clarified in cases like *In re Slimick*[44] *and In re Schimmels*[45] which established that the date the clerk signs and dockets the order is the definitive starting point, making a party's actual knowledge immaterial. This deadline is strictly jurisdictional, meaning that failure to file the notice of appeal even one day late results in a loss of the right to appeal.[46] The appellate courts have no discretion to waive this requirement. While the deadline is firm, the rules provide limited mechanisms for slight relief. Rule 8002(d) permits an extension of up to 21 days from the original due date, but only if the motion for extension is filed within the initial 14-day window and the party demonstrates excusable neglect, a standard applied using the balancing test established in *Pioneer Investment Services Co. v. Brunswick Associates*.[47] Furthermore, the 14-day clock can be tolled (paused) by certain timely filed post-judgment motions (e.g., motions for reconsideration) under Rule 8002(b). The new appeal period begins only after the bankruptcy court rules on the motion.

[43] Ibid r 9006(a).
[44] *Slimick v Silva (In re Slimick)* [1990] 928 F 2d 304 307 (9th Cir 1990).
[45] *United States v Schimmels* [1996] 85 F 3d 416,421 (9th Cir 1996).
[46] *People v Frederic Mourad* [2004] 13 AD 3d 558.
[47] *Pioneer Investment Services Co v Brunswick Associates* [1993] 507 US 380.

A meaningful comparison between the U.S. bankruptcy appellate framework and India's Section 61 IBC regime must begin by recognising that the two systems are products of vastly different institutional and economic environments. The U.S. model anchored in a 14-day docket-entry trigger works because the bankruptcy system possesses the administrative preconditions necessary for such strictness, like instantaneous electronic docketing, uniform clerk practices, specialised courts, and litigants who are structurally equipped to monitor filings in real time. This infrastructure ensures that a rigid limitation rule is not merely formalistic but operationally fair. In contrast, India's insolvency framework, though equally committed to speed, operates through institutions with inconsistent technological integration. NCLT and NCLAT are general corporate tribunals with inconsistent infrastructure, delayed uploads, non-uniform e-service practices, and no equivalent to the U.S. docket-entry mechanism. The Supreme Court's insistence in *V. Nagarajan* and *Tata Steel* that limitation runs from pronouncement regardless of when an order is accessed imports U.S.-style rigidity without U.S.-level administrative reliability. Thus, a deeper comparative analysis reveals that the logic behind U.S. model's strictness, which is predictability, transparency, and administrative precision, is precisely what India's system currently lacks. The real lesson is not that India should copy U.S. rules, but that India's rigid interpretation of Section 61 becomes normatively troubling when applied in an environment where access to orders is uneven.

IV. CRITICAL ANALYSIS OF THE PROBLEM

The approach adopted by Courts and Tribunals after *V. Nagarajan v. SKS Ispat* has been to refrain from condoning any delay beyond the

statutory period of 30 + 15 days and to treat the pronouncement of the order in open court as the point from which the limitation period is triggered.[48] However, such an approach is fundamentally flawed.

A. The period of limitation can only be computed from such time as the order is made available to the parties

The period of limitation for appellants to file an appeal must be calculated from the time the impugned judgment/order was made available to them. It is a well-established legal principle that the limitation period can only commence once the affected parties have been duly notified of the court's decision.[49] To hold otherwise would be to deny the appellants their fundamental right to seek redress, as they cannot be expected to challenge a judgment of which they had no prior knowledge. The problem arises because no one records the detailed contents of the order in court, and the parties are therefore unable to form an informed opinion on whether the order ought to be appealed without first reviewing it.

The purpose of the law of limitation is not to prejudice litigants but to prevent the revival of stale claims and to ensure finality in legal proceedings.[50] The law of limitation is to ensure that timely action is taken so that least prejudice is called to litigants and evidence, as the case may be, is not lost. Therefore, for limitation to run from such time as when a copy of the order is not available would grossly prejudice parties. The law thus demands that the clock on the limitation period start ticking

[48] *V. Nagarajan* (n 21).
[49] *State of Maharashtra v ARK Builders* [2011] 4 SCC 616.
[50] *N Balakrishnan v M Krishnamurthy* [1998] 7 SCC 123.

only from the moment the appellants were afforded a fair opportunity to review and respond to the NCLT's ruling. It is for this reason that the Limitation Act, 1963 (**Limitation Act**) specifically excludes the time requisite for obtaining a copy of the order.[51] It is also precisely for this purpose that the NCLT Rules also mandate that a copy of the judgement must be made available by the Registry.[52]

B. It goes against the legislative intent of the Limitation Act and the NCLT Rules

It is pertinent to note that the explanation to Section 12 of the Limitation Act is inapplicable to cases where it is statutorily mandated for the authority concerned to supply a copy of the judgment.[53] In such cases, various courts have held that the time taken by the authorities concerned to supply the copy would legitimately be *"time required for obtaining the copy"* under Section 12 of the Limitation Act and ought to be excluded.[54] A bare reading of the Rules 50 and 150 of the NCLT Rules, 2016, demonstrates that the registry of the NCLT is statutorily mandated to provide a free certified copy of every order to the parties.[55]

Rule 150, dealing with the pronouncement of an order, mandates that a copy be provided, and thus, any pronouncement without a copy of the order cannot be deemed complete.[56] Moreover, the rules do not provide for an application to be made to receive such a copy, nor do they contemplate any active steps to be taken for such communication, since

[51] Limitation Act 1963, s 12.
[52] NCLT Rules 2016, r 150.
[53] *State of Maharashtra* (n 49).
[54] *State of Maharashtra* (n 49).
[55] NCLT Rules 2016, r 50, 150.
[56] NCLT Rules 2016, r 150.

the rules nowhere specify any application to be made nor any format thereof. The use of the word "shall" demonstrates the legislative intent to ensure that it is mandatory for the Registry to discharge this duty and provide the orders to parties. It is only on receipt of such an order that any litigant would be able to review the order and seek appropriate legal counsel for any further steps and determine the pros and cons thereof. It is impossible to prepare an appeal based on an oral pronouncement without a written copy of the order.

It is therefore crucial that the period of limitation be computed from the date on which the order is made available. This is further demonstrated by Rule 22 of the National Company Law Appellate Tribunal Rules 2016, which mandates the filing of the appeal in the prescribed format of Form NCLAT-1, which requires categorically the "*Date on which the order appealed against is* ***communicated*** *and proof thereof, if any",* and not the date on which the order was pronounced in open court.[57] It is therefore clear that the period between the date of pronouncement and the date of receipt of a certified copy provided by the Registry must ought be excluded under Section 12 (2) of the Limitation Act, 1963.[58]

C. Common practice of post-pronouncement changes

It is a common practice in the NCLT and various courts that even orders and judgments that are pronounced in open court are often corrected and changed prior to publication. For instance, in *Tarandeep Kaur Ahluwalia vs. One City Infrastructure Private Limited*, although the Hon'ble NCLAT orally dictated the order on 04.10.2024, the certified

[57] National Company Law Tribunal Rules 2016, r 22.
[58] Limitation Act 1963, s 12(2).

copy and order were uploaded on 24.10.2024, after a delay of 20 days.[59] Therefore, due to this common practice, the limitation period should not be triggered when the order is pronounced in open court.

D. In arguendo, the Supreme Court can condone delay

It is settled law that the provisions of the Limitation Act are applicable to the IBC proceedings as enumerated in Section 238A of the IBC itself.[60] In fact, various judgments of this Hon'ble Court, such as *Kalpraj Dharamshi and Anr. v. Kotak Investment Advisors Ltd. and Anr.;*[61] *BK Educational Services Ltd v. Parag Gupta and Associates,*[62] *Sesh Nath Singh and Anr v. Baidyabati Sheoraphuli Coooperative Bank Ltd and Anr*,[63] have held that the provisions of the Limitation Act apply *mutatis mutandis* to the IBC. The judgment in *B.K. Education*, in particular, holds that Section 5 of the Limitation Act would be applicable to the Code.[64]

Therefore, Section 5 of the Limitation Act empowers the SC to condone delay beyond the limitation period, as prescribed by the Code, if there is sufficient cause. In the context of appeals before the NCLAT, the prescribed period is forty-five days, comprising a statutory period of thirty days, extendable by a further fifteen days if the NCLAT is satisfied

[59] *Tarandeep Kaur Ahluwalia and Ors v One city Infrastructure Private Limited* Civil Appeal No 55313 of 2014.
[60] Insolvency and Bankruptcy Code 2016, s 238A.
[61] *Kalpraj Dharamshi and Anr v Kotak Investment Advisors Ltd and Anr* [2021] 10 SCC 401.
[62] *B K Educational Services Ltd v Parag Gupta and Associates* [2019] 12 SCC 734.
[63] *Sesh Nath Singh and Anr v Baidyabati Sheoraphuli Cooperative Bank Ltd and Anr* [2016] 1 SCC 439.
[64] ibid.

that sufficient cause prevented the filing of the appeal within the initial thirty days. Without prejudice to the foregoing arguments, it is argued that the restriction on condonation beyond forty-five days applies only to the NCLAT and not to the Supreme Court. Therefore, Section 5 empowers the SC to condone delay even beyond the prescribed period, including the condonable fifteen-day extension, provided sufficient cause is shown.

E. Practical Challenges

Multiple practical challenges arise when the limitation period is triggered without formal communication of the order to the parties. Creditors are often left uninformed and remain remediless once the limitation period begins to run. In most cases, only the applicant's representatives are present in open court at the time of pronouncement, while other creditors are unaware of the decision. This stance therefore prejudices the position of creditors. Furthermore, lawyers do not have access to the final signed copy of the order, which is necessary to prepare and file an appeal effectively.

V. SUGGESTIONS

In order to eliminate this confusion, which undermines the rights of the aggrieved party, following recommendations are suggested.

A. Statutory Clarification by Amendment

Section 61 only states that the limitation period would be triggered from the date of the order passed by the Adjudicating Authority, which leaves room for ambiguity. Therefore, an amendment should clarify whether the appeal must be filed within thirty days from the date of delivery of

the order in open court, the date of pronouncement, communication, or uploading of the signed order. For this purpose, a proviso could be added to Section 61(2), which may read as follows:

"*Provided that the appeal shall be filed within thirty days from the date of pronouncement of the order, which shall be construed as the date on which the order is communicated to the parties, whether through a free copy or a certified copy furnished by the Registry, or by uploading of the order, whichever is earlier*."

Furthermore, in light of the repeated judicial confusion and inconsistent application of limitation under Section 61, it is proposed that an Explanation be added to Section 61(2) of the Code to define "date of pronouncement" as follows:

"Explanation. - *For the purposes of this sub-section, the expression 'date of pronouncement of the order' shall mean the date on which the final signed order is made available to the parties, either through its communication by the Registry, provision of a free or certified copy, or its uploading on the official portal of the Adjudicating Authority, whichever occurs first*."

This would align with the argument that oral dictation in open court is not a definitive judicial act, and that the right to appeal must be triggered by access to the operative, authenticated order.

B. A uniform treatment is required for certified copies and free copies

The question is whether an aggrieved party can wait for the free copy that the registry is required to furnish, or whether it is the duty of the

aggrieved party to apply for a paid certified copy, given that there may be some delay in receiving the free copy. Any delay in obtaining the certified copy, once the application has been filed, ought to be excluded from the limitation period. In *V. Nagarajan v. SKS Ispat*, the Court held that filing an application for a certified copy is a key parameter to assess the due diligence of the aggrieved party.[65] In line with this, the Supreme Court in *State Bank of India v. India Power Corporation Ltd.* observed that, under Rule 50 of the NCLT Rules, a free-of-cost certified copy and a paid certified copy stand on the same footing, with no distinction between them.[66] Therefore, a litigant who fails to act diligently and does not apply for a certified copy cannot later contend that they were waiting for the free copy and that the limitation period had not yet commenced.[67]

Table B. Situations under Section 61 of the Code

Scenario	Facts	Effect on Limitation
Scenario 1	Application of a certified copy filed within 30 days, and an appeal is also filed within 30 days.	Time taken to obtain the certified copy would be excluded from the limitation
Scenario 2	'Free of cost' copy received within 30 days, and the appeal is also filed within 30 days	Preparation time is not excluded

[65] *V. Nagarajan* (n 9).
[66] *State Bank of India v India Power Corporation Ltd* Civil Appeal 10424 of 2024.
[67] Ibid.

Scenario 3	'Free of cost' copy received within 45 days	Preparation time is not excluded
Scenario 4	'Free of cost' copy received after 45 days	Appeal is barred by limitation

The above table illustrates that under Section 61; the computation of limitation depends on how and when the order is received by the party. When a certified copy is applied for within the prescribed time period, the time taken for its preparation can be excluded from the limitation period. In contrast, when the parties rely on the free copy, no such exclusion exists, even if the delay occurs due to reasons beyond their control. This imbalance between the two approaches places diligent litigants at a disadvantage through no fault of their own. Therefore, it is necessary to adopt a uniform rule as suggested in *Ashdan Properties* whereby both free and certified copies are treated on the same footing for calculating the period of limitation. This would ensure fairness in the process.[68]

C. Mandatory Communication of Signed Orders

In order to avoid confusion regarding when the limitation period is triggered, it is suggested that the Adjudicating Authority should digitally communicate the signed order to the parties through email or e-filing portals. This should be done on the same day the order is uploaded and pronounced in open court. This suggestion is similar to the docket system that has been adopted in the courts of the U.S. The limitation period

[68] *Ashdan Properties Pvt Ltd* (n 37).

should be triggered from the date of such communication. This would ensure that parties are not prejudiced by delays in uploading or by the lack of official intimation.

D. India needs Specialised Courts for IBC

The NCLT and NCLAT were constituted under the Companies Act, 2013 as general corporate tribunals, not as specialised insolvency courts.[69] Their jurisdiction over IBC matters was later added through legislative allocation. As a result, their procedural framework embodied in the NCLT Rules, 2016 was never designed for the time-sensitive philosophy of the Code. These rules suit company law disputes, where flexibility in filing and service is permissible, but they clash with the strict deadlines under IBC. This reveals an institutional gap as the IBC envisions speed, but the procedural infrastructure is not tailored to that goal. If such tight jurisdictional timelines are to be enforced, India requires specialised bankruptcy courts with bespoke procedural codes mirroring the U.S. model to ensure consistency and efficiency. The U.S. bankruptcy system operates through specialised Article I courts with independent procedural rules (Rules 8002, 9006). These ensure uniform and predictable application of strict timelines. India's dual-purpose tribunals, staffed by mixed technical and judicial members, often produce inconsistency. Hence, a specialised insolvency judiciary aligned with the commercial urgency of the Code is necessary to fully realise its objectives.

[69] Companies Act 2013, s 408.

E. Procedural leniency must be provided to Operational Creditors

In *Swiss Ribbons Pvt. Ltd. v. Union of India* (2019)[70], the Supreme Court explicitly recognised the different positions of financial and operational creditors within the Code. The Court upheld the constitutional validity of this distinction, reasoning that financial creditors are typically large institutions capable of assessing viability and negotiating restructuring, while operational creditors often lack such sophistication and exposure. The Court observed that FCs are more directly involved in assessing the financial health of a debtor and play a central role in the Committee of Creditors, whereas OCs generally supply goods and services and are not positioned to evaluate resolution viability. However, the Court also emphasised that OCs are not without protection. It noted that their claims must receive at least the liquidation value and that discrimination between similarly situated creditors is not permissible.[71] Therefore, the Code's design aims to balance expediency with fairness protecting the commercial functionality of the Code without denying legitimate claims.

This reasoning can be extended to argue that, under Section 61, operational creditors should receive procedural leeway in computing limitation periods for appeals. Many operational creditors, particularly MSMEs, lack the institutional capacity and legal awareness that large financial creditors possess. A strict, technical computation of limitation starting from pronouncement rather than actual knowledge could unjustly bar their access to appellate remedies, undermining the Code's equitable intent. Therefore, building on the logic of *Swiss Ribbons*, the

[70] *Swiss Ribbons Pvt Ltd v Union of India* [2019] 4 SCC 17 [44]-[47].
[71] Ibid [76].

jurisprudential argument is that procedural rigor should be tempered with proportional fairness. The Court's recognition of the distinct nature and capacity of Operational Creditors supports such a context-sensitive application of Section 61 ensuring that speedy resolution does not defeat the idea of justice for smaller, less-equipped creditors.

VI. CONCLUSION

The jurisprudence on IBC appeals presents a paradox: the Code demands time-bound process (a strict 45-day outer limit under Section 61), but the underlying NCLT procedure creates ambiguity regarding when the clock starts. The Supreme Court, in various cases, mandated that the limitation period begins from oral pronouncement in open court. They treated the 45-day period as a jurisdictional ceiling that cannot be extended, even for one day. This approach, however, clashes with principles of fairness, as an oral dictation is often corrected before the signed order is available. Unlike the US system, which uses the clear trigger of docket entry, India's reliance on general NCLT rules for IBC matters creates an institutional gap. To ensure consistency and due process, the paper presents few broad suggestions. *First*, the law requires clarification. An amendment to Section 61 should define the start of limitation as the date the signed order is communicated or uploaded. *Second*, adopting the diligence standard set in *V. Nagarajan* and *Ashdan Properties Pvt. Ltd.*, where litigants must apply for a certified copy, should be balanced by treating the free copy and paid copy equally for time exclusion purposes, ensuring procedural equity for all parties. And *last*, specialised insolvency courts with bespoke procedural rules distinct from the generalist NCLT framework must be established.