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REPORTABLE

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 92 OF 2026

(Arising out of S.L.P (Civil) No. 3906 of 2017)

THE PROPERTY COMPANY (P) LTD. …APPELLANT(S)

VERSUS

ROHINTEN DADDY MAZDA …RESPONDENT(S)

J U D G M E N T

J.B. PARDIWALA, J.:

For the convenience of exposition, this judgment is divided into the following parts:-

INDEX

1. Leave granted.

2. This appeal arises from the judgment and order dated 16.12.2016, passed by the High Court at Calcutta in A.P.O. No. 222/2016 (hereinafter, the "**impugned decision**"), by which the High Court dismissed the appeal filed by the appellant herein and thereby, affirmed the order passed by the Company Law Board, Kolkata

Bench (hereinafter, the "**CLB**") in C.A. No. 81 of 2014, condoning the delay of 249 days in filing the appeal under Section 58(3) of the Companies Act, 2013 (hereinafter, "**the Act, 2013**")by the respondent herein.

A. FACTUAL MATRIX

3. The Property Company (P) Ltd. (hereinafter, the "**appellant company**") is a private limited company having a total of 631 fully paid-up equity shares. Ms. Mehroo Mazda, the mother of Mr. Rohinten Daddy Mazda, (hereinafter, the "**respondent**"), is said to have been a shareholder, holding 20 shares of the appellant company (hereinafter, the "**subject shares**"). Ms. Mehroo Mazda had passed away on 22.07.1989, however, two years prior to her demise, she is said to have bequeathed the subject shares to the respondent through her last will and testament dated 19.06.1987. Eventually, the respondent is also said to have obtained a probate of her will on 30.11.1990.

4. *Vide* letter dated 01.03.2013, i.e., after a gap of about 23 years from the date of obtaining the probate, the respondent's advocate had sent a notice to the appellant company seeking registration of the transmission of the subject shares. However, within a period of two months, *vide* communication dated 30.04.2013, the appellant company had replied to the aforesaid notice and refused such registration. It is pertinent to note that, during this period, it was

Section 111 of the erstwhile Companies Act, 1956 (hereinafter, the "**Erstwhile Act**") which was in force. Sub-sections (2) and (3) respectively of Section 111 stipulated that the person giving intimation of the transmission of shares may prefer an appeal against such refusal before the CLB, but that this must be done within a period of two months from the receipt of the notice of refusal from the company. The said period of two months lapsed on 30.06.2013 and the respondent failed to take any action in this regard within the prescribed time period.

5. It is the case of the respondent that on or about 09.07.2013, the respondent who is a resident of London and a practising barrister, came to Kolkata and had held a conference with his advocates as regards the approach to be taken in the matter at hand, amongst others. As per his advocate's advice, *vide* communication dated 18.07.2013, yet another request was said to have been made to the appellant company to register the transmission of the subject shares. This communication is said to have also informed that the respondent would initiate appropriate legal action if the registration was not carried forward with. Thereafter, on or about 23.07.2013, the respondent is said to have departed from Kolkata.

6. Meanwhile, the Act, 2013 had replaced the Erstwhile Act and was published in the Official Gazette on 30.08.2013. However, not all provisions came into force on the said date. The Act, 2013 was implemented in a phased manner. Several provisions of the Act, 2013

had been brought into effect on 12.09.2013 and Section 58 along with Section 59 (which corresponds to Sections 111 and 111A of the erstwhile Act respectively) were amongst these provisions. In other words, as on 12.09.2013, Section 111 and 111A of the erstwhile Act respectively, ceased to have any effect and was replaced by the new Sections 58 and 59 of the Act, 2013 respectively. The same was clarified *vide* Circular No. 16 of 2013 dated 18.09.2013 issued by the Ministry of Corporate Affairs, Government of India.

7. It would be apposite to mention that the appellant company afforded no reply to the aforesaid second communication dated 18.07.2013 sent by the respondent's advocates. Thereafter, the respondent is said to have returned to India during the second week of December, 2013 and also have instructed his advocates to proceed with taking appropriate legal recourse before a competent court of law.

8. In pursuance of the same, after a period of about five months from the second communication i.e., on 12.12.2013, the respondent's advocate forwarded a copy of the petition filed under Section 111A of the Erstwhile Act to the appellant company and presented the same before the Bench Officer, CLB, on the very next day i.e., on 13.12.2013. However, it seems that certain defects, including that the erstwhile Sections 111 and 111A respectively, had been replaced by the new Sections 58 and 59 respectively, were identified and the Bench Officer *vide* letter dated 16.12.2013 requested the same to be addressed and rectified within a period of 15 days.

9. The respondent thought fit to file a fresh petition instead of rectifying the defects as aforesaid and therefore, a fresh appeal under Section 58 of the Act, 2013 was filed before the CLB on 07.02.2014. The same came to be numbered as C.P. No. 31 of 2014. In the aforesaid appeal, the respondent had prayed for the following reliefs:

> *"(a) An order may be passed directing the respondent company to register the transfer/transmission of 20 equity shares in favour of the petitioner within a period of ten days;*
>
> *(b) That an order may be passed to rectify the register of members of the respondent company and induct the same of the petitioner in place of the transferor in relation to the 20 shares in question and all benefits such as rights/bonus, etc. that have accrued thereupon since the date of purchase;*
>
> *(c) Such orders as to the cost as may be deemed appropriate by the Hon'ble Bench;*
>
> *(d) Such further directions as the Hon'ble Bench may be pleased to give;"*

10. Along with the aforesaid appeal, the respondent also filed an application bearing C.A. No. 81 of 2014 under Regulation 44 of the Company Law Board Regulations, 1991 (hereinafter, the "**CLB Regulations**") seeking the condonation of delay of 249 days in preferring the appeal under Section 58 of the Act, 2013.

11. Soon thereafter, on 04.03.2014, the appellant company filed an application praying to dismiss the C.P. No. 31 of 2014 as being barred under Order XXIII, Rule 1(4) of the Code of Civil Procedure, 1908 (hereinafter, the "**CPC**") more particularly because the previous

petition filed by the respondent on 13.12.2013 as regards the same subject-matter, had been abandoned by the respondent. *Vide* order dated 09.01.2015, the CLB held that the subsequent petition filed on 07.02.2014 under Section 58 of the Act, 2013 was maintainable because the earlier petition remained unregistered and un-numbered and therefore, the respondent could not be said to have abandoned his claim in choosing to file a fresh petition/appeal.

12. Aggrieved by the aforesaid order of the CLB, the appellant company filed an appeal before the High Court and the same came to be dismissed *vide* order dated 26.02.2015. The order of dismissal was further affirmed by this Court *vide* order dated 03.08.2015. In short, the order of the CLB holding that the subsequent petition filed under Section 58 of the Act, 2013, was maintainable, attained finality.

B. DECISION OF THE CLB

13. As far as the application made before the CLB for condonation of delay in filing the subsequent petition dated 07.02.2014 is concerned, the same was allowed *vide* order dated 27.05.2016 and the delay of 249 days was condoned. While allowing the aforesaid application, the CLB had observed the following:

(i) ***First,*** that the delay of 249 days primarily occurred owing to the fact that the respondent stayed in London and also because the earlier petition/appeal dated 13.12.2013 was filed under Section 111A of the erstwhile Act, which provision had ceased to have any effect post 12.09.2013.

(ii) ***Secondly,*** that the technical ground of delay in filing the company petition must not overshadow or come in the way of the registration of transmission of the subject shares despite the fact that probate was granted on 30.11.1990.

(iii) ***Thirdly***, that reasonable steps were taken by the respondent from the 2013 onwards to get the shares registered and in the interests of justice, the delay should be condoned.

(iv) ***Lastly***, considerable weight seems to have been placed on the fact that the underlying Company Petition bearing C.P. No. 31 of 2014 had been held to be maintainable and that the same was also affirmed by this Court.

The relevant observations are reproduced hereinbelow:

> *"5.1 Under the aforesaid facts and circumstances, it is clear that the Petitioner appears to have remained silent from 1990 till the beginning of 2013 and there is no explanation as to such inaction on the part of the petitioner for making request to the Respondent Company for transmission of 20 shares in his favour based on the probate of Will dated 30.11.1990. However, on 12.09.2013, new Section 58 of the Companies Act, 2013 has become effective and hence, the Petitioner was under obligation to initiate action for filing the Petition under Section 58 of the Companies Act, 2013 within the permissible time. However, due to his stay in London and procedural discussions/conferences and also, the Company Petition wrongly filed under section 111A of the Companies Act, 1956, delay has occurred for 249 days. Here, it is relevant to highlight that the Company petition has been held maintainable by this Hon'ble Board vide order dated 09.01.2015 in the matter of C.A. No.167/2014. Apart from this, it is also viewed that merely the technical ground of delay of 249 days in filing the petition should not come in the*

way of transmission of shares despite probate of Will. Therefore, in the broader perspective, I am of the considered opinion that the Petitioner has taken reasonable steps at least from 2013 onwards and the 20 shares under transmission need to be represented by the legal representative of the deceased member of the Company. As such, for the ends of justice, I hereby condone the delay of 249 days in filing the Company Petition No. 31 of 2014."

C. THE IMPUGNED DECISION

14. It is pertinent to note that Section 434 of the Act, 2013 had come into force with effect from 01.06.2016 and sub-section 1(b) of Section 434 provided that any person who is aggrieved by any decision or order of the CLB made before 01.06.2016 may file an appeal, on any question of law, before the High Court, within 60 days of the date of communication of the decision of the CLB. Therefore, upon being aggrieved by the aforesaid order of the CLB dated 27.05.2016, on 22.07.2016, the appellant company preferred an appeal under Section 10F of the Erstwhile Act before the High Court.

15. It is also apposite to mention that, on 01.06.2016, Section 433 of the Act, 2013, which applied the provisions of the Limitation Act, 1963 (hereinafter, the "**Act, 1963**") to proceedings or appeals before the National Company Law Tribunal (hereinafter, the "**NCLT**") and the National Company Law Appellate Tribunal (hereinafter, the "**NCLAT**"), was brought into force. The said provision reads as under:

> "***433. Limitation. –*** *The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to proceedings or appeals before the Tribunal or the Appellate Tribunal, as the case may be.*"

16. The High Court in the impugned decision delved into the issue of whether the CLB lacked authority in receiving the appeal under Section 58 of the Act, 2013 beyond the time prescribed therein. *Vide* its order and judgement dated 16.12.2016, the High Court dismissed the appeal and thereby, upheld the order of the CLB by which the period of delay of 249 days was condoned. While doing so, the High Court discussed as follows:

(i) ***First,*** it was acknowledged that under the provisions of the Erstwhile Act, the CLB would have the powers which are normally vested in a 'Court' only to the extent that Section 10E(4C) of the Erstwhile Act would allow. Therefore, it was a 'court' only in a restricted sense. Furthermore, it was stated that there cannot be any doubt that the provisions of Section 5 of the Act, 1963 would only be applicable to courts and not to any tribunal/quasi-judicial body including the CLB, unless such authorities are vested with the powers to condone delay. The decision of this Court in ***M.P. Steel Corporation v. Commissioner of Central Excise*** reported in **(2015) 7 SCC 58** was discussed in this regard.

(ii) ***Secondly***, heavy reliance was placed on the decision of this Court in ***Canara Bank v. Nuclear Power Corporation of India Ltd.*** reported in **(1995) Supp (3) SCC 81** and a decision rendered

by the Division Bench of the Calcutta High Court in ***Smt. Nupur Mitra v. Basubani Ltd.*** reported in **(1999) SCC OnLine Cal 47.** It was stated that ***Nupur Mitra*** *(supra)* had held that in proceedings under Section 111 of the Erstwhile Act, the provisions of the Limitation Act would apply. This view of the Division Bench was also stated to have been affirmed by this Court when the matter was taken in appeal. Therefore, it was opined that the CLB could consider an application for condonation of delay as regards an appeal made under Section 58 of the Act, 2013 (which had replaced Section 111 of the Erstwhile Act) as well.

(iii) ***Thirdly,*** reference was made to the decision of a Single Judge of the Calcutta High Court in ***Mackintosh Burn Ltd. v. Sarkar Chowdhury Enterprises P. Ltd.*** reported in **2015 SCC OnLine Cal 10466** wherein it was observed that although Section 58(4) of the Act, 2013 sets certain time limits, yet the same should not be construed to mean that the CLB would be prevented from receiving an appeal thereunder beyond the stipulated period. The provision also does not explicitly prohibit the receipt of an appeal beyond the expiry of the time-limits indicated therein. Furthermore, it was stated that it has been judicially recognised that the principles contained in the Act, 1963 would be applicable to matters before the CLB.

(iv) ***Lastly,*** it was observed that a High Court exercising appellate jurisdiction would be required to take into consideration the change in law, if any, that may have occurred during the time

the appeal is being decided. For this purpose, the decision of this Court in ***Lakshmi Narayan Guin v. Niranjan Modak*** reported in **AIR 1985 SC 111** was referred to. The change being alluded to in the present case was the coming into force of Section 433 of the Act, 2013 which expressly made the Act, 1963 applicable to proceedings before the NCLT and NCLAT respectively. It was also stated that an appeal is a continuation of the original proceedings and the order of the CLB, being subject to appeal, could not be said to have reached finality. Therefore, no right could be said to have vested in the appellant company such that they could prevent the application of the Act, 1963 to proceedings before the CLB despite the change in law in that regard.

17. The relevant observations made in the impugned decision are as under:

> "*Under the provisions of Companies Act, 1956, the Company Law Board (CLB) is a Court in a restricted sense. Under Section 10E (4C) of the Companies Act, 1956, the CLB would have powers under the Code of Civil Procedure, 1908 (5 of 1908) only in respect of the matters specified in Section 10E (4C) (a) to (f) of the Companies Act. The Company Law Board is a quasi-judicial authority to be guided by the principles of natural justice in exercise of its power and discharge its functions under the Companies Act, 1956 and it shall act in its discretion. There cannot be any doubt that the provisions of Section 5 of the Limitation Act would only be applicable to the Courts and not to any Tribunal, Quasi-Judicial bodies including CLB unless such authorities are vested with the power of enlargement. In M.P. Steel Corporation (supra), the Hon'ble Supreme Court after taking*

into consideration a large number of decisions held that a series of decisions of the Supreme Court have also clearly held that the Limitation Act applies only to Courts and does not apply to quasi-judicial bodies and the decision in Madan Lal Das & Sons reported at (1976) 4 SCC, 464, a three-Judge Bench of the Supreme Court is per incuriam as it was decided without adverting to either Parson Tools, (1975) 4 SCC 22 or other earlier judgments. Madan Lal case, therefore, is not an authority for the proposition that the Limitation Act would apply to tribunals as opposed to courts.

-xxx-

The three decisions of the Company Law Board relied upon by Mr. Saha does not appear to have taken into consideration the decision of the Hon'ble Supreme Court in Canara Bank Vs. Nuclear Power Corporation of India Ltd. & Ors. reported at 1995 (84) Comp Cas 70; 1995(Sup3) SCC 81 and a Division Bench Judgement of the Hon'ble High Court in Smt. Nupur Mitra & Anr. Vs. Basubani Pvt. Ltd. & Ors. reported at 1999 (2) CLT 264 where it has been clearly held that in the absence of a specific provision covering application under Section 111, the residuary Article, namely, Article 137 would apply.

In Smt. Nupur Mitra (supra), the Hon'ble Division Bench relying upon a decision of the Hon'ble Supreme Court in Canara Bank (supra) held that in proceedings under Section 111 of the Act the provisions of the Limitation Act would apply. The judgment was taken in appeal wherein the Supreme Court after observing, "various contentions are raised on behalf of both the parties before us and, in particular on behalf of the appellants as regards the limitation and delay. The respondents in their petition have made out a prima facie case for condonation of delay and if necessary, the respondents may file such documents as permissible in law to get the delay condoned'', directed the Company Law Board to hear the matter afresh. Thus, in view of the Supreme Court upholding the decision of the Calcutta High Court that the

provisions of the Limitation Act are applicable to the proceedings under Section 111 of the Companies Act, the said decision was binding on the Company Law Board. If so, then the application for condonation of delay can be considered under Section 5 of the Limitation Act. In regard to the application of the Section, the settled law as propounded by the Supreme Court in a number of cases is that the term "sufficient cause" in Section 5 must receive liberal construction so as to advance substantial justice and generally delays in bringing the appeal are required to be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bona fides is imputable to the parties seeking condonation of delay. It may not be out of place to mention that in the case of Smt. Nupur Mitra (supra) the petition under Section 111 of the Act was filed nearly 50 years after the allotment of shares and the Company Law Board dismissed the Petition as time-barred. The order was set aside by the Division Bench of the Calcutta High Court, which decision was confirmed by the Supreme Court and the matter was remanded back to the Company Law Board for consideration afresh.

In Smt. Nupur Mitra (supra) in Paragraph 65 of the said report, the Hon'ble Division Bench considered the applicability of the Limitation Act and held:-

"65. Assuming that the Limitation Act, 1963 does apply, in the absence of a specific provision covering applications under Section 111, the residuary article namely Article 137 would apply. If the cause of action arose in 1996 as claimed by the appellants, the application under Section 111 having been filed in 1998 would be within time."

-xxx-

A Co-ordinate Bench in M/s Mackintosh Burn (supra) answered the said question in the manner following:-

"Section 58(4) of the Act permits an application though the exact word used is "appeal" to be filed by a person within the time stipulated in such provision. The provision is for the benefit of the transferees of shares in a public company and the time-limits are 60 days from the date of the refusal to register the transfer or 90 days of the delivery of the instrument for transfer to the company without any intimation as to its fate.

Though the provision sets the time-limits as above, nothing therein prevents the Company Law Board from receiving a petition or application thereunder beyond the stipulated period.

Since it is now judicially recognized that the principles contained in the Limitation Act, 1963 would be applicable to matters before the Company Law Board, irrespective of the use of the word "appeal" in the relevant provision, it would appear that the Company Law Board would have authority to receive a petition after the expiry of the specified period, by applying the principles of the Limitation Act as may be applicable. The question of law sought to be raised is of no consequence since the provision does not prohibit the receipt of a petition or application thereunder after the expiry of the time-limits indicated therein."

Moreover, the High Court in exercising an appellate jurisdiction is required to take into consideration the change of law. In fact, the decisions cited by Mr. Saha in order to emphasize that the said change of law did not affect the pending proceeding supports the respondent more than the appellant. In Lakshminarayan Guin (supra), the Hon'ble Supreme Court had taken note of the change of law to extend protection to a tenant against eviction which was not available to the tenant when the original proceeding was instituted. The intention of the legislature to extend the benefit of such amendment to a tenant in the pending proceeding was manifest. The manifest intention with which Mr. Saha seeks to support the observation of the Hon'ble

Supreme Court in Lakshminarayan Guin (supra) equally applies in the instant case as failure to apply such principle may cause manifest injustice and miscarriage of justice since by operation of law the petitioner is entitled to have his name recorded in the share register and the refusal to register the share in the name of the petitioner is patently illegal.

-xxx-

The very fact that an appeal is a continuation of proceedings and the order of CLB is subject to appeal and has not reached finality, therefore, no right appears to have been vested in the appellant in order to attract the mischief of affecting vested right, if there be any.

Under such circumstances, this Court finds no reason to interfere with the order passed by the Company Law Board. Since legal issue sought to be raised is devoid on merit ACO No.91 of 2016 and APO No.222 of 2016 are dismissed.

However, there shall be no order as to costs."

(Emphasis supplied)

D. SUBMISSIONS OF THE PARTIES

I. Submissions on behalf of the appellant company

18. Ms. Nina Nariman, the learned counsel appearing on behalf of the appellant company submitted, at the outset, that the impugned decision fails to take into account the settled position of law that the Act, 1963 is not applicable to tribunals or quasi-judicial bodies. Therefore, the CLB acted without authority while condoning the delay of 249 days in filing the appeal under Section 58 of the Act, 2013.

19. It was submitted that Regulation 44 of the CLB Regulations saving the inherent powers of the CLB could not be said to empower it to circumvent the mandatory time-limit to file a petition provided in the statute and that the said regulation has no manner of application in the matter of condonation of delay in the instant case. The power of condonation has to be conferred specifically by the statute itself or by way of the statute adopting the provisions of the Act, 1963 akin to what has been provided for under Section 433 of the Act, 2013.

20. It was submitted that on the date on which the decision of the CLB was rendered, the provisions of Section 433 of the Act, 2013 had not come into force. They had come into force only w.e.f. 01.06.2016 i.e., four days after the CLB had passed its order. While it is conceded that the effect of the coming into force of Section 433 is that the NCLT would have the powers to condone delay in respect of "proceedings" or "appeals" before itself if sufficient cause is made out, the same cannot be imputed to the status of things which existed prior to 01.06.2016.

21. The counsel would also submit that an appeal under Section 58(3) of the Act, 2013 would be in the nature of an original proceeding and Section 5 of the Act, 1963 could not be said to confer any power upon a court or tribunal to condone delay in respect of a proceeding of original nature. It is only an "appeal" or an "application" in respect of which delay can be condoned.

22. She would submit that Section 58(3) of the Act, 2013 is analogous to Section 111(3) of the Erstwhile Act. The decision of this Court in ***Canara Bank*** *(supra)* had observed that the appeal by a shareholder instituted before the CLB under Sections 111(2) and 111(3) of the Erstwhile Act respectively, would be an 'original application' despite its nomenclature as an 'appeal'. The counsel placed further reliance on the decisions of this Court in ***Mardia Chemicals Ltd. v. Union of India*** reported in **(2004) 4 SCC 311** and ***Gopal Sardar v. Karuna Sardar*** reported in **(2004) 4 SCC 252** to buttress her argument that proceedings would be of an original nature despite the use of the word "appeal" under the said provision.

23. The counsel would also submit that the impugned decision had misread the observations made by this Court in the order dated 14.09.1999 in Civil Appeal Nos. 5063-64 of 1999, by which this Court disposed of the appeal against the decision of the Calcutta High Court in ***Smt. Nupur Mitra*** *(supra)*.

24. In such circumstances referred to above, the learned counsel prayed that there being merit in her appeal, the same may be allowed and the impugned decision of the High Court be set-aside.

II. <u>Submissions on behalf of the respondent</u>

25. On the other hand, Ms. Meenakshi Arora, the learned Senior Counsel appearing for the respondent would submit that the impugned

decision correctly arrived at the conclusion that there was no negligence on the part of the respondent in filing the appeal before the CLB under Section 58 of the Act, 2013 and also that the application seeking condonation of delay was rightly allowed.

26. The counsel would submit that Section 58(3) of the Act, 2013 prescribes a period of 30 days from the date of the notice of refusal from the company or in case no such notice was obtained, then a period of 60 days from the date the instrument of transfer or intimation of transmission was delivered to the company, within which an appeal must be preferred to the CLB (now, NCLT) by the transferee.

27. The counsel drew a comparison with Section 34 of the Arbitration and Conciliation Act, 1996 to indicate that unlike the said provision, which uses the words "*but not thereafter*", there was no indication under Section 58(3) that an appeal cannot be filed beyond the period of 30 or 60 days, as the case may be.

28. The counsel submitted that Section 29(2) of the Act, 1963 clearly provides that where any special or local law prescribes for any suit, appeal or application, a period of limitation different from that prescribed by the Schedule to the Act, 1963, then Section 3 of the Act, 1963 would apply as if such period indicated under the special or local law were the period prescribed by the Schedule. Therefore, for determining any period of limitation prescribed for a suit, appeal or

application by any special or local law, the provisions contained in Sections 4 to 24 of the Act, 1963 respectively (both inclusive) would apply, only insofar as, and to the extent of which, they are not expressly excluded by such special or local law. In her view, even before the coming into force of Section 433 of the Act, 2013, there was no express exclusion of the provisions of the Act, 1963 and therefore, the CLB could be said to have the power under Section 5 of the Act, 1963 to condone the delay in preferring the appeal under Section 58(3) of the Act, 2013.

29. The counsel placed heavy reliance on the decision of this Court in ***M.P. Steel*** *(supra)* wherein it was held that the principles of the Act, 1963 as contained Section 14 would apply to applications or appeals made before a quasi-judicial body/tribunal.

30. Even otherwise, it was submitted that since an appeal before the High Court under Section 10F of the Erstwhile Act would be a continuation of the original proceedings, the order of the CLB had not attained finality and the High Court was right in considering the change in law that was brought forth by the coming into force of Section 433 of the Act, 2013. Therefore, no right could be said to have been otherwise vested in the appellant company. In this regard, the counsel would refer to the decision of this Court in ***Lakshmi Narayan Guin*** *(supra)*, ***Dilip v. Mohd. Azizul Haque & Anr.*** reported in **(2000) 3 SCC 607** and ***H.V. Rajan v. C.N. Gopal & Ors.*** reported in **(1975) 4 SCC 302.**

31. In such circumstances as referred to above, the counsel prayed that there being no merit in this appeal, the same may be dismissed.

E. ISSUES FOR DETERMINATION

32. Having heard the learned counsel appearing for the parties and having gone through the materials on record, the following questions fall for our consideration:

I. Whether the CLB, being a quasi-judicial body, could be said to have the power to condone the delay in filing an appeal under Section 58(3) of the Act, 2013? In other words, even if Section 5 of the Act, 1963, per say, could not be applied to quasi-judicial bodies, whether the principles underlying Section 5 of the Act, 1963 be made applicable to an appeal under Section 58(3) of the Act, 2013, instituted before the CLB?

II. Whether Section 433 of the Act, 2013 which was brought into force on 01.06.2016 in order to empower the NCLT and NCLAT respectively, to apply the provisions of the Act, 1963, could be given retrospective effect such that it applied to the CLB as well?

F. ANALYSIS

I. The implementation of the provisions of the Act, 2013 in phases and the powers conferred upon the CLB in the period between 12.09.2013 and 01.06.2016.

33. In order to ensure a smooth transition into the new framework, the Act, 2013 was implemented in phases. Section 1 of the Act, 2013 came into force on 30.08.2013. Section 1, itself, indicated that different dates may be appointed for the coming into force of different provisions.

34. A group of 98 sections or parts thereof was brought into force on 12.09.2013. It is noteworthy to mention that Section 58 of the Act, 2013 formed a part of this group.

35. Much thereafter, on 01.06.2016, Chapter XXVII which contained several provisions relating to the constitution of the NCLT and NCLAT respectively and their powers, was brought into force. This included Section 433 as well.

36. In the period between 12.09.2013 and 01.06.2016, a mix of provisions i.e., certain provisions from the Erstwhile Act and certain provisions from the Act, 2013 held the field. In other words, when the new provisions were being brought into force in phases, the provisions of the Erstwhile Act were also being repealed in phases.

37. The facts and circumstances of the present matter are peculiar for the reason that the appeal under Section 58(3) of the Act, 2013 was filed during this period between 12.09.2013 and 01.06.2016. In other words, the Section 58(3) appeal was filed at a time when the NCLT and NCLAT had not yet been constituted. Therefore, although the appeal was made under the new provision of the Act, 2013, yet the body/forum before which it was made was one constituted under the provisions of the Erstwhile Act, i.e., the CLB.

38. Insofar as the CLB is concerned, Section 10E of the Erstwhile Act dealt with how it was to be constituted and the kind of powers that it could exercise. More particularly, Section 10E(4C) of the Erstwhile Act specifically stated that the CLB shall have the same powers which are otherwise vested in a Court trying a suit under the CPC, only in respect of certain specific matters which included the discovery and inspection of documents, examining witnesses on oath etc. In respect of matters pertaining to limitation, there was no express provision which permitted the CLB to act in a manner similar to that of a court. The relevant provision is reproduced as under:

> *"(4C) Every Bench referred to in sub-section (4B) shall have powers which are vested in a Court under the Code of Civil Procedure, 1908 (5 of 1908), while trying a suit, in respect of the following matters, namely : -*
> *(a) discovery and inspection of documents or other material objects producible as evidence ;*
> *(b) enforcing the attendance of witnesses and requiring the deposit of their expenses ;*

(c) compelling the production of documents or other material objects producible as evidence and impounding the same ;
(d) examining witnesses on oath ;
(e) granting adjournments ;
(f) reception of evidence on affidavits."

39. It was only when an appeal was instituted before the High Court, by a person aggrieved by any decision or order of the CLB, that Section 10F of the Erstwhile Act, allowed the condonation of delay upon sufficient cause being shown. However, even this was capped for a further period not exceeding sixty days. In other words, the maximum period within which one could prefer an appeal before the High Court against an order of the CLB was 120 days (60 days + 60 days). Section 10F is reproduced as under:

> *"**10F. APPEALS AGAINST THE ORDERS OF THE COMPANY LAW BOARD***
>
> *Any person aggrieved by any decision or order of the Company Law Board may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Company Law Board to him on any question of law arising out of such order :*
>
> *Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days."*
>
> (Emphasis supplied)

40. What is evident from the aforesaid is that, during the period between 12.09.2013 and 01.06.2016, it was the CLB which was the adjudicating authority even as regards a proceeding initiated under the new

provisions of the Act, 2013. We deem it necessary to reemphasize that there was no provision either akin to or corresponding to Section 433 of the Act, 2013 which empowered the CLB to apply the Act, 1963 during this period between 12.09.2013 and 01.06.2016. The legislature had very consciously timed the coming into force of Section 433 of the Act, 2013 with that of the creation of the NCLT and NCLAT respectively, which unambiguously revealed their intention to not confer the CLB with any power insofar as the issue of limitation was concerned.

41. Therefore, it now becomes necessary for us to examine whether the Act, 1963 would apply to those quasi-judicial bodies which are not specifically or expressly empowered to apply the provisions of the Act, 1963. Even if this is answered in the negative, would it be permissible for us to accept the submission made by Ms. Arora that the principles underlying certain provisions of the Act, 1963 should nevertheless be made applicable to such quasi-judicial bodies?

II. <u>Whether the CLB, being a quasi-judicial body, could be said to have the power to condone the delay in filing an appeal under Section 58(3) of the Act, 2013?</u>

a. The Act, 1963, per say, does not apply to quasi-judicial bodies – emphasis on the court as an institution.

42. In the absence of a specific provision in the special legislation which expressly extends the application of the Act, 1963 to proceedings before the concerned quasi-judicial body or the system of quasi-judicial bodies, the thumb rule is that the rules of limitation, not only those that seek to lay down a prescribed period but also those envisaged under Sections 4 to 24 respectively of the Act, 1963, would remain inapplicable to quasi-judicial bodies.

43. The crux of the underlying reasoning behind such a position is the reluctance and disinclination to apply those rules and principles pertaining to limitation, to bodies to which it was not contemplated to have any application. This can be a double-edged sword at times, i.e., although the proceedings before these quasi-judicial bodies would be governed by their own prescribed period of limitation without any conflict with the timelines laid out in the Schedule to the Act, 1963 yet this would also mean that the other provisions included within Sections 4 to 24 respectively of the Act, 1963, which more often than not, come to the aid of the litigant, would remain inaccessible to persons pursuing remedies before quasi-judicial bodies.

44. This general and universal rule that the Act, 1963 only applies to 'civil courts' was expounded in the decision of this Court in ***Town Municipal Council, Athani v. Presiding Officer, Labour Courts, Hubli and Others*** reported in **(1969) 1 SCC 873** which was concerned with applications made by workmen, before the Labour Court, under Section 33-C(2) of the Industrial Disputes Act, 1947. The aforesaid

legislation did not expressly make the provisions of the Act, 1963 applicable to Labour Courts. However, one of the pleas raised was that the applications under Section 33-C(2) were time-barred in view of Article 137 of the Schedule to the Act, 1963. The aforesaid plea came to be rejected and a two-fold reasoning was assigned – (a) that the provisions of the Act, 1963, more specifically, Article 137, would only govern applications made under the CPC; and (b) At the very least, it was stated that Article 137 is only concerned with those applications which are presented to a "court" as understood in the strictest sense and not to quasi-judicial bodies. On the latter aspect, with which we are directly concerned, it was elaborated as follows:

(i) ***First,*** that on a closer look at the Articles under the Third Division of the Schedule to the Act, 1963, which deals with 'applications', it is plainly evident that all these applications should be presented before a 'court'. Even the applications as regards the Arbitration and Conciliation Act, 1996, which find mention in the Third Division, were to be presented before 'courts'. Therefore, the determining factor would be whether the application is made before a court or not. In other words, it is the forum before which the application is made which ought to be given importance to. If it is a court then, there would be no restriction in applying the Articles contained in the third division for the purpose of limitation. However, if the application is made before a tribunal or a quasi-judicial body, then the said Articles cannot be applied. To put it simply, "*the scope of the various articles in this division cannot be held to have been*

so enlarged as to include within them applications to bodies other than courts, such as a quasi-judicial tribunal, or even an executive authority".

(ii) ***Secondly,*** the change in the long title of the Act, 1963 in comparison to the old Limitation Act, 1908 was taken note of. It was changed from "*an Act to consolidate and amend the law for the limitation of suits and for other purposes*" to "*An Act to consolidate and amend the law for the limitation of suits and other proceedings and for purposes connected therewith*". It was opined that the addition of the word "other proceedings" in the long title, could not be said to necessarily imply that the Act, 1963 was now enlarged in scope to also govern proceedings before any authority, whether executive or quasi-judicial, in comparison to the old Limitation Act which was intended to govern proceedings before civil courts only. The purposes for which the Act, 1963 was enacted, in the opinion of this Court, could not be construed as having been fundamentally altered due to the change in the phrasing of the long title to the Act, 1963.

The relevant observations are thus:

> "*12. This point, in our opinion, may be looked at from another angle also. When this Court earlier held that all the articles in the third division to the schedule, including Article 181 of the Limitation Act of 1908, governed applications under the Code of Civil Procedure only, it clearly implied that the applications must be presented to a court governed by the Code of Civil Procedure. Even the applications under the Arbitration Act that were included within the third division by amendment of Articles 158 and 178 were to be presented to courts whose*

proceedings were governed by the Code of Civil Procedure. At best, the further amendment now made enlarges the scope of the third division of the schedule so as also to include some applications presented to courts governed by the Code of Criminal Procedure. One factor at least remains constant and that is that the applications must be to courts to be governed by the articles in this division. The scope of the various articles in this division cannot be held to have been so enlarged as to include within them applications to bodies other than courts, such as a quasi-judicial tribunal, or even an executive authority. An Industrial Tribunal or a Labour Court dealing with applications or references under the Act are not courts and they are in no way governed either by the Code of Civil Procedure or the Code of Criminal Procedure. We cannot, therefore, accept the submission made that this article will apply even to applications made to an Industrial Tribunal or a Labour Court. The alterations made in the article and in the new Act cannot, in our opinion, justify the interpretation that even applications presented to bodies, other than courts, are now to be governed for purposes of limitation by Article 137.

13. Reliance in this connection was placed by learned counsel for the appellant primarily on the decision of the Bombay High Court in P.K. Parwal v. Labour Court, Nagpur. [1966 SCC OnLine Bom 99 : (1968) 70 Bom LR 104] We are unable to agree with the view taken by the Bombay High Court in that case. The High Court ignored the circumstance that the provisions of Article 137 were sought to be applied to an application which was presented not to a court but to a Labour Court dealing with an application under Section 33-C(2) of the Act and that such a Labour Court is not governed by any procedural code relating to Civil or Criminal Proceedings. That court appears to have been considerably impressed by the fact that, in the new Limitation Act of 1963, an alteration was made in the long title which has been incorrectly described by that court as preamble. Under the old Limitation Act, no doubt, the long title was "an Act to consolidate and amend the law for the limitation of suits and for other purposes", while, in the new Act of 1963, the long title is "An Act to consolidate and amend

the law for the limitation of suits and other proceedings and for purposes connected therewith". In the long title, thus, the words "other proceedings" have been added; but we do not think that this addition necessarily implies that the Limitation Act is intended to govern proceedings before any authority, whether executive or quasi-judicial, when, earlier, the old Act was intended to govern proceedings before civil courts only. It is also true that the preamble which existed in the old Limitation Act of 1908, has been omitted in the new Act of 1963. The omission of the preamble does not, however, indicate that there was any intention of the legislature to change the purposes for which the Limitation Act has been enforced. The Bombay High Court also attached importance to the circumstance that the scope of the new Limitation Act has been enlarged by changing the definition of "applicant" in Section 2(a) of the new Act so as to include even a petitioner and the word "application" so as to include a petition. The question still remains whether this alteration can be held to be intended to cover petitions by a petitioner to authorities other than Courts. We are unable to find any provision in the new Limitation Act which would justify holding that these changes in definition were intended to make the Limitation Act applicable to proceedings before bodies other than Courts. We have already taken notice of the change introduced in the third division of the Schedule by including references to applications under the Code of Criminal Procedure, which was the only other aspect relied upon by the Bombay High Court in support of its view that applications under Section 33-C of the Act will also be governed by the new Article 137. For the reasons we have indicated earlier, we are unable to accept the view expressed by the Bombay High Court; and we hold that Article 137 of the Schedule to the Limitation Act, 1963, does not apply to applications under Section 33-C(2) of the Act, so that the previous decision of this Court that no limitation is prescribed for such applications remains unaffected."

(Emphasis supplied)

45. The first leg of the two-fold reasoning adopted in ***Town Municipal Council, Athani*** *(supra)* came to be seriously doubted and the fate of applications made under other laws but before "courts" seemed to be in a limbo. More particularly, the question was whether applications made to courts under the provisions of other laws, apart from the CPC, would be included within the scope of the Act, 1963 or not.

46. The aforesaid confusion was resolved by the three-judge bench decision of this Court in ***Kerala State Electricity Board, Trivandrum v. T.P. Kunhaliumma*** reported in **(1976) 4 SCC 634.** Therein, the issue was whether Article 137 of the Act, 1963 would apply to a petition under Section 16(3) of the Indian Telegraph Act, 1885 claiming compensation against the Electricity Board, made before the District Judge. While reaching the conclusion that Article 137 of the Act, 1963 would apply to any petition or application filed under 'any Act' to a civil court and disagreeing with ***Town Municipal Council, Athani*** *(supra)* on this aspect, the Bench elucidated as follows:

(i) ***First,*** that Article 137 of the Act, 1963 would include a petition or any application made under 'any Act' and cannot be strictly confined to applications made under the CPC. However, one must be cognisant in recognising that such an application under any other Act should be made before a 'court' as understood in the traditional sense. The reason being that Sections 4 and 5 of the Act, 1963 respectively speak of the expiry of the prescribed period when the 'court' is closed and also extension of the

prescribed period if the 'court' is satisfied about the existence of sufficient cause in not preferring the appeal or application during the stipulated time period.

(ii) ***Secondly,*** this Court delved into the aspect of the specific import of the words "District Judge" used in Section 16(3) of the Indian Telegraph Act, 1885. In other words, the attempt was to ascertain whether the aforesaid words would refer to a determination by the District Judge 'acting judicially as a court' or not. It was held that Section 16 contained intrinsic evidence to indicate that reference was being made to the 'court of the District Judge'. Therefore, it was concluded, that there existed no reason to withhold the application of Article 137.

The relevant observations are reproduced hereinbelow:

> "*18. The alteration of the division as well as the change in the collocation of words in Article 137 of the Limitation Act, 1963 compared with Article 181 of the 1908 Limitation Act shows that applications contemplated under Article 137 are not applications confined to the Code of Civil Procedure. In the 1908 Limitation Act there was no division between applications in specified cases and other applications as in the 1963 Limitation Act. The words "any other application" under Article 137 cannot be said on the principle of ejusdem generis to be applications under the Civil Procedure Code other than those mentioned in Part I of the third division. Any other application under Article 137 would be petition or any application under any Act. But it has to be an application to a court for the reason that Sections 4 and 5 of the 1963 Limitation Act speak of expiry of prescribed period when court is closed and extension of prescribed period if applicant or the appellant satisfies the court that he had sufficient cause for not preferring the appeal or making the application during such period.*

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20. The provisions in the Telegraph Act which contemplate determination by the District Judge of payment of compensation payable under Section 10 of the Act indicate that the District Judge acts judicially as a court. Where by statutes matters are referred for determination by a court of record with no further provision the necessary implication is that the court will determine the matters as a court. (See National Telephone Co. Ltd. v. Postmaster-General [1913 AC 546 : 82 LJKB 1197 : 29 TLR 637] . In the present case the statute makes the reference to the District Judge as the Presiding Judge of the District Court. In many statutes reference is made to the District Judge under this particular title while the intention is to refer to the court of the District Judge. The Telegraph Act in Section 16 contains intrinsic evidence that the District Judge is mentioned there as the court of the District Judge. Section 16(4) of the Telegraph Act requires payment into the court of the District Judge such amount as the telegraph authority deems sufficient if any dispute arises as to the persons entitled to receive compensation. Again, in Section 34 of the Telegraph Act reference is made to payment of court fees and issue of processes both of which suggest that the ordinary machinery of a court of civil jurisdiction is being made available for the settlement of these disputes. Section 3(17) of the General Clauses Act states that the District Judge in any Act of the Central Legislature means the judge of a principal civil court of original jurisdiction other than the High Court in the exercise of its original civil jurisdiction, unless there is anything repugnant in the context. In the Telegraph Act there is nothing in the context to suggest that the reference to the District Judge is not intended as a reference to the District Court which seems to be the meaning implied by the definition applicable thereto. The District Judge under the Telegraph Act acts as a civil court in dealing with applications under Section 16 of the Telegraph Act.

21. The changed definition of the words "applicant" and "application" contained in Sections 2(a) and 2(b) of the 1963

Limitation Act indicates the object of the Limitation Act to include petitions, original or otherwise, under special laws. The interpretation which was given to Article 181 of the 1908 Limitation Act on the principle of ejusdem generis is not applicable with regard to Article 137 of the 1963 Limitation Act. Article 137 stands in isolation from all other articles in Part I of the third division. This Court in Nityananda Joshi case has rightly thrown doubt on the two-Judge Bench decision of this Court in Athani Municipal Council case where this Court construed Article 137 to be referable to applications under the Civil Procedure Code. Article 137 includes petitions within the word "applications". These petitions and applications can be under any special Act as in the present case.

22. The conclusion we reach is that Article 137 of the 1963 Limitation Act will apply to any petition or application filed under any Act to a civil court. With respect we differ from the view taken by the two-judge bench of this Court in Athani Municipal Council case [(1969) 1 SCC 873 : (1970) 1 SCR 51] and hold that Article 137 of the 1963 Limitation Act is not confined to applications contemplated by or under the Code of Civil Procedure. The petition in the present case was to the District Judge as a court. The petition was one contemplated by the Telegraph Act for judicial decision. The petition is an application falling within the scope of Article 137 of the 1963 Limitation Act."

(Emphasis supplied)

47. Although the aforesaid two decisions of this Court were directly concerned with the application of Article 137 of the Schedule to the Act, 1963 to applications made before quasi-judicial bodies, yet they laid down a larger general rule regarding the scope and extent of application of the Act, 1963, as a whole, to tribunals or quasi-judicial bodies created by special laws; more particularly those laws, wherein

no express provision seeking to apply the Act, 1963 to proceedings before the concerned quasi-judicial body/tribunal existed.

48. On a careful scrutiny, it can be culled out that the aspect which pre-occupied this Court in the aforementioned two decisions is the absolute necessity of the 'court' or the system of courts as envisaged in the Constitution which ought to be held as solely capable of applying the provisions of the Act, 1963. Therefore, notable and significant emphasis was placed on which institution/body is seeking to employ certain provisions of limitation or exercise the powers entrusted under the Act, 1963. The general rule, in this context, is a strict and unmalleable one i.e., it is only the courts which would concern itself with the provisions of the Act, 1963 unless expressly indicated otherwise in any special law governing quasi-judicial bodies.

49. This general rule was only bolstered through several landmark decisions which came subsequently. A three-judge bench of this Court in ***Commissioner of Sales Tax, U.P., Lucknow v. Parson Tools and Plants, Kanpur*** reported in **(1975) 4 SCC 22** observed thus:

> *"9. […] In view of these pronouncements of this Court, there is no room for argument that the Appellate Authority and the Judge (Revisions) Sales tax exercising jurisdiction under the Sales Tax Act, are "courts". They are merely Administrative Tribunals and "not courts". Section 14, Limitation Act, therefore, does not, in terms apply to proceedings before such tribunals."*
>
> (Emphasis supplied)

50. Several decisions that came subsequent to ***Parson Tools*** *(supra)* have also reinforced that the Act, 1963 could be applied to appeals or applications made to 'courts' only. Without engaging in the exercise of specifically referring to each of these decisions, we refer with profit to the decision of this Court in ***M.P. Steel*** *(supra)*, wherein this issue was put to rest and it was stated as follows:

> *"19. […] On a plain reading of the provisions of the Limitation Act, it becomes clear that suits, appeals and applications are only to be considered (from the limitation point of view) if they are filed in courts and not in quasi-judicial bodies.*
>
> *-xxx-*
>
> *21. […] The question in this case is whether the Limitation Act extends beyond the court system mentioned above and embraces within its scope quasi-judicial bodies as well?*
>
> *22. A series of decisions of this Court have clearly held that the Limitation Act applies only to courts and does not apply to quasi-judicial bodies. […]"*
>
> (Emphasis supplied)

51. On a reading of the aforementioned decisions, it can be stated, without doubt, that the provisions of the Act, 1963 (provisions that lay down a prescribed period of limitation as well as Sections 4 to 24 of the Act, 1963 respectively) would only apply to suits, applications or appeals which are made under any law to 'courts' and not to those made before quasi-judicial bodies or tribunals, unless such quasi-judicial bodies or tribunals are specifically empowered in that regard.

52. This discussion which reveals that the application of the provisions of the Act, 1963 is "body/forum specific" would also be relevant in addressing a particular submission made by Ms. Arora - that Section 433 of the Act, 2013 which specifically empowers the NCLT and the NCLAT respectively to apply the provisions of the Act, 1963 to proceedings or appeals before itself, must be given retrospective effect such that it applies to the CLB as well. However, we shall deal with this submission, in the latter parts of our discussion.

b. Decisions of this Court as regards the application of Section 5 of the Act, 1963 to quasi-judicial bodies or tribunals

53. Insofar as the application of Section 5 of the Act, 1963 to quasi-judicial bodies is concerned, this Court has always indicated that the same can only be applied to 'courts'. In ***Officer on Special Duty (Land Acquisition) and Another v. Shah Manilal Chandulal and Others*** reported in **(1996) 9 SCC 414,** this Court had categorically held that Section 5 of the Act, 1963 cannot be resorted to by statutory authorities which are not 'courts'. Therein, this Court was concerned with whether the Collector or the Land Acquisition Officer could extend time.

54. It is interesting to note that in ***Officer on Special Duty*** *(supra)*, a State amendment to the concerned provision clarified that the orders made by the Collector under that provision shall be subject to revision by the High Court and for that specific purpose, the Collector was to be

considered to be a court subordinate to the High Court. In the impugned decision therein, this amendment was wrongly construed as conferring the Collector with the powers of a court even as regards Section 5 of the Act, 1963. This Court clarified that the aforesaid local amendment treated the Collector as a court only for a 'limited purpose' i.e., for the exercise of revisional jurisdiction and that this could not be conflated with the powers under Section 5 of the Act, 1963. The relevant observations are thus:

> *"4. The question, therefore, is: whether Section 5 of the Limitation Act would apply? The High Court relied upon sub-section (3) of Section 18 which was made by way of a local amendment, i.e., the Land Acquisition (Maharashtra Extension and Amendment) Act 38 of 1964 which reads thus:*
>
> > *"Any order made by the Collector on an application under this section shall be subject to revision by the High Court, as if the Collector were a Court subordinate to the High Court within the meaning of Section 115 of the Code of Civil Procedure, 1908."*
>
> *5. It would appear that the High Court of Gujarat has taken a consistent view that, by operation of sub-section (3), as the Collector was designated to be a court subordinate to the High Court under Section 115, Civil Procedure Code (for short "CPC"), Section 5 of the Limitation Act (26 of 1963) stands attracted. Though sub-section (3) of Section 18, by virtue of local amendments, treated the Collector as court for a limited purpose of exercising revisional jurisdiction under Section 115, CPC to correct errors of orders passed by the Collector under Section 18, he cannot be considered to be a court for the purpose of Section 5 of the Limitation Act. Section 5 of the Limitation Act stands attracted only when LAO acts as a court."*
>
> (Emphasis supplied)

55. Another decision of this Court in ***Prakash H. Jain v. Marie Fernandes*** *(supra)* reported in **(2003) 8 SCC 431** which was also concerned with the condonation of delay by a statutory authority, observed as follows:

i. ***First,*** that while considering the issue of condonation of delay, one must look not only at the nature and character of the authority i.e., whether it is a court or not, but also pay careful attention to the nature of the powers already conferred upon such authorities, the scheme underlying the provisions of the concerned Act, the extent or the boundaries of the powers contained therein and especially take into account the intention of the legislature.

ii. ***Secondly,*** there is no such thing as any inherent power to condone delay in filing any proceedings, unless specifically warranted and permitted by law, since reading such an inherent power would have the consequence of altering the rights accrued to a party under the concerned statute.

iii. ***Thirdly,*** when a statutory authority is 'deemed' to be a court for certain limited and specific purposes, it must not be taken to mean that it would be a court for any and all other purposes as well. The legal fiction must be given full effect, however, it must not be extended beyond the purpose for which the fiction was created. Therefore, unless expressly indicated, such statutory authorities cannot be clothed with any power that is to be exercised under the Act, 1963.

The relevant observations are reproduced hereinbelow:

> *"10. We have carefully considered the submissions of the learned counsel appearing on either side. Questions of the nature raised before us have to be considered not only on the nature and character of the authority, whether it is court or not but also on the nature of powers conferred on such authority or court, the scheme underlying the provisions of the Act concerned and the nature of powers, the extent thereof or the limitations, if any, contained therein with particular reference to the intention of the legislature as well, found expressed therein. There is no such thing as any inherent power of court to condone delay in filing proceedings before a court/authority concerned, unless the law warrants and permits it, since it has a tendency to alter the rights accrued to one or the other party under the statute concerned. […]"*
>
> *-xxx-*
>
> *12. […] but the various provisions under Chapter VIII unmistakably indicate that the competent authority constituted thereunder is not "court" and the mere fact that such authority is deemed to be court only for limited and specific purposes, cannot make it a court for all or any other purpose and at any rate for the purpose of either making the provisions of the Limitation Act, 1963 attracted to proceedings before such competent authority or clothe such authority with any power to be exercised under the Limitation Act. It is by now well settled by innumerable judgments of various courts including this Court, that when a statute enacts that anything shall be deemed to be some other thing the only meaning possible is that whereas the said thing is not in reality that something, the legislative enactment requires it to be treated as if it is so. Similarly, though full effect must be given to the legal fiction, it should not be extended beyond the purpose for which the fiction has been created and all the more, when the deeming clause itself confines, as in the present case, the creation of fiction for only*

a limited purpose as indicated therein. Consequently, under the very scheme of provisions enacted in Chapter VIII of the Act and the avowed legislative purpose obviously made known patently by those very provisions, the competent authority can by no means be said to be "court" for any and every purpose and that too for availing of or exercising powers under the Limitation Act, 1963.

13. The competent authority constituted under and for the purposes of the provisions contained in Chapter VIII of the Act is merely and at best a statutory authority created for a definite purpose and to exercise, no doubt, powers in a quasi-judicial manner but its powers are strictly circumscribed by the very statutory provisions which conferred upon it those powers and the same could be exercised in the manner provided therefor and subject to such conditions and limitations stipulated by the very provision of law under which the competent authority itself has been created."

(Emphasis supplied)

56. Viewing the facts and circumstances of the present case in light of the ratio of ***Officer on Special Duty*** *(supra)* and ***Prakash H. Jain*** *(supra)*, it can be seen that the CLB was also to be treated as a court but for very limited purposes which were enumerated under Section 10E(4C) of the Erstwhile Act. Therefore, the powers conferred under Section 10E(4C) must neither be conflated with nor extended to encompass the powers which a court would otherwise exercise under Section 5 of the Act, 1963.

57. In yet another decision of this Court in ***Om Prakash v. Ashwani Kumar Bassi*** reported in **(2010) 9 SCC 183,** it was stated that the Rent Controller, being a creature of statute, would only be able to act in

terms of the powers vested in him by the statute and would therefore, be incapable of entertaining an application under Section 5 of the Act, 1963 for the condonation of delay or extension of time. It was observed thus:

> *"24. […] There is no specific provision to vest the Rent Controller with authority to extend the time for making of such affidavit and the application. The Rent Controller being a creature of statute can only act in terms of the powers vested in him by statute and cannot, therefore, entertain an application under Section 5 of the Limitation Act for condonation of delay since the statute does not vest him with such power."*
>
> (Emphasis supplied)

58. The aforesaid decisions are direct authorities for the proposition that Section 5 of the Act, 1963 is not to be utilised by statutory bodies or authorities for the purpose of extending time or condoning delay. However, since heavy reliance has been placed on the decision of this Court in ***M.P. Steel*** *(supra)* to submit that the principles underlying Section 5 of the Act, 1963 must nevertheless be made applicable to statutory authorities or quasi-judicial bodies, we must see if the decisions of this Court in ***Officer on Special Duty*** *(supra),* ***Prakash H. Jain*** *(supra)* and ***Om Prakash*** *(supra)* still hold good.

c. Whether the principles underlying certain provisions of the Act, 1963 could be made applicable to quasi-judicial bodies or tribunals.

59. We are aware that although the provisions of the Act, 1963 per say have been made inapplicable to applications or appeals before quasi-judicial bodies, yet the principles underlying the provisions of the Act, 1963, more specifically Section 14 thereof, have been made applicable to applications or appeals made before quasi-judicial bodies. This aspect of applying the principles underlying Section 14 of the Act, 1963 was discussed in ***Parson Tools*** *(supra)*.

60. Although the decision in ***Parson Tools*** *(supra)* did not apply the principles underlying Section 14 of the Act, 1963 to the facts of their case, based on how the concerned provision i.e., Section 10 of the U.P. Sales Tax Act, 1948, was phrased, yet it left open the possibility for future decisions to apply the said principles where a contrary intention could not be inferred or culled out from the provision to which the principles underlying Section 14 was sought to be applied.

61. Subsequently, this Court in ***M.P. Steel*** *(supra)* took forward the idea that the principles underlying Section 14 of the Act, 1963 could be applied to a provision, unless a contrary intention appears from its wording. This was because the principles upon which Section 14 is based are those which advance the cause of justice. In the facts of that case, this Court permitted the application of the principles underlying Section 14 of the Act, 1963 to an appeal filed by the appellant under Section 128 of the Customs Act, 1962 and remanded the matter to the Commissioner (Appeals) for a decision on merits.

62. In the course of arriving at the said conclusion, ***M.P. Steel*** *(supra)* referred to a vital distinction between exclusion of time and condonation of delay, the former relating to Section 14 of the Act, 1963 and the latter relating to Section 5 of the Act, 1963. This difference was discussed because the provision with which they were concerned i.e., Section 128 of the Customs Act, 1962, stated that time could not be 'extended' beyond a further period of three months. In examining whether the aforesaid stipulation would impede or qualify the application of the principles underlying Section 14 of the Act, 1963, it was stated that 'exclusion of time' is conceptually different from 'extension of time/condonation of delay' and it is only the latter for which the statute has prescribed an outer-limit of an additional period of three months. Therefore, as far as the exclusion of time under Section 14 was concerned, it could not be said that there was any upper-limit as such that was prescribed in the provision. The relevant observations made in ***M.P. Steel*** *(supra)* are reproduced as follows:

> *"43. […] Also, the principle of Section 14 would apply not merely in condoning delay within the outer period prescribed for condonation but would apply dehors such period for the reason pointed out in Consolidated Engg. [(2008) 7 SCC 169] above, being the difference between exclusion of a certain period altogether under Section 14 principles and condoning delay. As has been pointed out in the said judgment, when a certain period is excluded by applying the principles contained in Section 14, there is no delay to be attributed to the appellant and the limitation period provided by the statute concerned continues to be the stated period and not more than the stated period. We conclude, therefore, that the principle of Section 14 which is a principle based on*

advancing the cause of justice would certainly apply to exclude time taken in prosecuting proceedings which are bona fide and with due diligence pursued, which ultimately end without a decision on the merits of the case."

(Emphasis supplied)

63. In contemplating whether the aforesaid decisions in ***Parson Tools*** *(supra)* and ***M.P. Steel*** *(supra)* which relate to applying the principles underlying Section 14 of the Act, 1963 to provisions which pertain to quasi-judicial bodies, could also be resorted to in the present case, we must take forward the distinction between Section 5 and Section 14 of the Act, 1963 respectively which was alluded to in ***M.P. Steel*** *(supra)*. This is because we are concerned with whether the principles underlying Section 5 of the Act, 1963, could be applied to provisions relating to quasi-judicial bodies in the same manner as that of Section 14.

64. The decision of this Court in ***Ganesan v. Commission, Tamil Nadu Hindu Religious and Charitable Endowments Board and Others*** reported in **(2019) 7 SCC 108** was directly concerned with the applicability of Section 5 of the Act, 1963 to appeal proceedings before a statutory authority and also had the opportunity to look into the decision in ***M.P. Steel*** *(supra)*. Despite this, ***Ganesan*** *(supra)* arrived at the conclusion that the ratio of ***M.P. Steel*** *(supra)* had no application to their case since it pertained to Section 14 and not Section 5 of the Act, 1963. Therefore, it refused to condone delay by briefly observing as follows:

> *"44. The two-Judge Bench in M.P. Steel Corpn. [M.P. Steel Corpn. v. CCE, (2015) 7 SCC 58 : (2015) 3 SCC (Civ) 510] , however, held that the provisions of Section 14 would certainly apply. We in the present case are concerned only with applicability of Section 5 of the Limitation Act."*

65. The aforesaid approach taken in ***Ganesan*** *(supra)*, by itself, is sufficient indication that the principles underlying Section 5 of the Act, 1963 cannot be applied to quasi-judicial bodies. However, to obviate any further confusion on this legal issue, we would like to take forward this conclusion arrived at in ***Ganesan*** *(supra)* a bit further and elucidate why the treatment as regards the principles underlying Sections 5 and 14 of the Act, 1963 respectively, must be different.

i. The difference between the principles underlying Sections 5 and 14 of the Act, 1963 respectively

66. Section 5 of the Act, 1963, with which we are directly concerned, reads thus:

> *"**5. Extension of prescribed period in certain cases.** – Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.*
>
> *Explanation. – The fact that the appellant or the applicant was misled by any order, practice or judgment of the High*

Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section."

67. The marginal note to Section 5 reads – "*Extension of prescribed period in certain cases*". Therefore, it is limpid that what the provision contemplates is the "extension" of the prescribed period of limitation and not the exclusion of it.

68. It is also well-established that the term "*sufficient cause*" under Section 5 must not be subject to undue rigidity and must be construed in a manner such that it can be contextualised in the facts and circumstances of each case. In other words, it must be kept sufficiently flexible and not be subject to an exhaustive set of circumstances or reasons. Courts must adopt a liberal and justice-oriented approach in assessing whether sufficient cause is made out. While there exists some outer boundaries within which the term "*sufficient cause*" must be construed, yet it is no doubt true that a significant amount of leeway is given to courts which are faced with an application under Section 5 of the Act, 1963 to ascertain whether the reasons assigned qualify the subjective test of the words "*sufficient cause*".

69. Furthermore, the use of the words "*may be admitted*" in the substantive part of the provision indicates that the power which is vested with the court to admit an appeal or an application after the prescribed period, upon sufficient cause being established, is discretionary in nature. There is not one but a two-layered exercise

of discretion which is involved in a Section 5 application – i.e., *first,* in determining whether "sufficient cause" existed and when the same is answered in the affirmative, then, *secondly,* in assessing whether the case is a fit one for the extension of time/condonation of delay [*See:* ***Shivamma (Dead) by LRs v. Karnataka Housing Board*** reported in **2025 SCC OnLine SC 1969**]

70. In contradistinction, Section 14 of the Act, 1963 reads thus:

> "***14. Exclusion of time of proceeding bona fide in court without jurisdiction.*** – *(1) In computing the period of limitation for any suit the time during which the plaintiff has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the defendant shall be excluded, where the proceeding relates to the same matter in issue and is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.*
>
> *(2) In computing the period of limitation for any application, the time during which the applicant has been prosecuting with due diligence another civil proceeding, whether in a court of first instance or of appeal or revision, against the same party for the same relief shall be excluded, where such proceeding is prosecuted in good faith in a court which, from defect of jurisdiction or other cause of a like nature, is unable to entertain it.*
>
> *(3) Notwithstanding anything contained in rule 2 of Order XXIII of the Code of Civil Procedure, 1908 (5 of 1908), the provisions of sub-section (1) shall apply in relation to a fresh suit instituted on permission granted by the court under rule 1 of that Order, where such permission is granted on the ground that the first suit must fail by reason of a defect in the jurisdiction of the court or other cause of a like nature.*

Explanation. – For the purposes of this section, –
(a) in excluding the time during which a former civil proceeding was pending, the day on which that proceeding was instituted and the day on which it ended shall both be counted;
(b) a plaintiff or an applicant resisting an appeal shall be deemed to be prosecuting a proceeding;
(c) misjoinder of parties or of causes of action shall be deemed to be a cause of a like nature with defect of jurisdiction."

71. The marginal note to Section 14 reads – "*Exclusion of time of proceeding bona fide in court without jurisdiction*". Therefore, at first blush, what becomes evident is that the provision is concerned with "exclusion" and not "extension".

72. On a further reading of the aforesaid, one can see that there are certain well-defined pre-requisites that must be satisfied for a party to take benefit of Section 14. Section 14(2) deals with computing the period of limitation for an application and the following are its requisite conditions – *First,* both the earlier and the subsequent proceedings must be civil proceedings; *Secondly,* both the earlier and the subsequent proceedings must be before a court; *Thirdly,* they must be between the same parties; *Fourthly,* they must be for the same relief; *Fifthly,* the previous proceedings must have been incapable of being entertained owing to a defect of jurisdiction or any other cause of a like nature; *Lastly,* the earlier proceedings must have been prosecuted with good faith and due-diligence.

73. Insofar as the second condition referred to above is concerned i.e., that both the earlier and the subsequent proceedings must be before a court, this Court in ***M.P. Steel*** *(supra)* clarified that the word "court" in Section 14 has now been expanded to include tribunals as well, but only insofar as the abortive proceeding is concerned. In other words, the application under Section 14 must still be made before a "civil court" or a court as understood in the traditional sense, but the time which is sought to be excluded may pertain to proceedings undertaken before a quasi-judicial forum. It was observed thus:

> *"34. […] This Court made a distinction between "civil court" and "court" and expanded the scope of Section 14 stating that any authority or tribunal having the trappings of a court would be a "court" within the meaning of Section 14. It must be remembered that the word "court" refers only to a proceeding which proves to be abortive. In this context, for Section 14 to apply, two conditions have to be met. First, the primary proceeding must be a suit, appeal or application filed in a civil court. Second, it is only when it comes to excluding time in an abortive proceeding that the word "court" has been expanded to include proceedings before tribunals."*
>
> (Emphasis supplied)

74. Another pertinent aspect under Section 14(2) is the use of the words "*shall be excluded*" which indicates that the provision is couched in mandatory language. Meaning thereby that, when the defined conditions or pre-requisites of Section 14(2) are satisfied, the court would be obligated to exclude the time concerned and it would not be open for the court to disallow the Section 14(2) application for any ancillary reason.

75. What flows from this preliminary examination of Sections 5 and 14 of the Act, 1963 respectively, is that – *First,* one pertains to the exercise of a discretionary power vested in courts and the other is a mandatory provision independent of any exercise of discretion; *Secondly,* one refers to "sufficient cause" which term by itself is subject to a good amount of elasticity and the other has delineated well-defined conditions which must be met; and *Lastly,* one deals with the extension of time while the other is concerned with the exclusion of time.

76. One common aspect that cuts through both provisions is, of course, that both have been enacted to advance the cause of substantial justice. However, we must be mindful in equating, without distinction, the principles underlying Sections 5 and 14 of the Act, 1963 respectively and erasing the very apparent differences which exist between the two provisions.

77. In this context, it would be apposite to point out that a three-judge bench of this Court in ***Consolidated Engineering Enterprises v. Principal Secretary, Irrigation Department and Others*** reported in **(2008) 7 SCC 169** indicated that the principles underlying Sections 5 and 14 of the Act, 1962 respectively, stand on a different footing. It was emphasized that while the power to excuse delay and grant extension of time under Section 5 is discretionary, the power to exclude time under Section 14 is mandatory when the necessary ingredients are fulfilled. Section 5 is much broader in scope because

a multitude of reasons could constitute "*sufficient cause*" for the purpose of condonation or extension. The relevant observations are thus:

> "*28. Further, there is fundamental distinction between the discretion to be exercised under Section 5 of the Limitation Act and exclusion of the time provided in Section 14 of the said Act. The power to excuse delay and grant an extension of time under Section 5 is discretionary whereas under Section 14, exclusion of time is mandatory, if the requisite conditions are satisfied. Section 5 is broader in its sweep than Section 14 in the sense that a number of widely different reasons can be advanced and established to show that there was sufficient cause in not filing the appeal or the application within time. The ingredients in respect of Sections 5 and 14 are different. The effect of Section 14 is that in order to ascertain what is the date of expiration of the "prescribed period", the days excluded from operating by way of limitation, have to be added to what is primarily the period of limitation prescribed. […].*"
>
> (Emphasis supplied)

78. One might still take the view that the difference between extension and exclusion is only semantic. However, such a view would seriously misconstrue the plain language and intent underlying these two provisions. On the one hand, when the court extends time under Section 5, what essentially occurs is that the applicant is required to satisfy the court about the existence of a sufficient cause starting from the date on which limitation began till the actual date of filing. Upon being satisfied about the existence of sufficient cause, the court then extends the prescribed period of limitation itself till the date of filing of the appeal or application, as the case may be, such that the appeal or application is deemed to have been filed within limitation, under

the eyes of law. In other words, the non-filing of the appeal or the application within prescribed period of limitation is only excused and the mandatory bar under Section 3 of the Act, 1963 is overcome by stretching out the prescribed period of limitation, through discretion, in the peculiar facts and circumstances of each case.

79. On the other hand, when the court is contemplating the exclusion of time under Section 14, the prescribed period of limitation continues to be unaltered. What happens is that, in computing the limitation period, the time during which the applicant was prosecuting the abortive proceeding is altogether excluded. This is substantiated by the observation of this Court in ***M.P. Steel*** *(supra)* that – "*when a certain period is excluded, by applying the principles contained in Section 14, there is no delay to be attributed to the appellant, and the limitation period provided by the statute concerned continues to be the stated period and not more than the stated period.*".

80. The effect of the exclusion is, therefore, that, the applicant or the appellant, as the case may be, is placed in a position wherein it is assumed that the abortive proceeding never even occurred in the first place. The law permits such an assumption if the ingredients under Section 14 are satisfied. There arises no question of stretching out the prescribed period of limitation through discretion. It is as though the time during which the abortive proceeding was prosecuted is expunged in the eyes of law. Such an erasure is allowed also because

no delay could be said to be attributed to the applicant or the appellant, as the case may be.

81. However, when an extension occurs under Section 5, the delay is, in clear terms, attributed to the applicant or the appellant, as the case may be. It is just that such a delay does not have the consequence of the application or the appeal being disallowed due to the mandate under Section 3 of the Act, 1963. The effect of Section 5 is that the period during which the sufficient cause persisted is not erased in the eyes of law; rather the prescribed period of limitation is discretionarily adjusted for the benefit of the litigant.

82. In simple terms, it could be said that, under Section 5, it is the limitation period itself which is being discretionarily extended; whereas, under Section 14, the clock is reversed and the litigant's position is restored to some specific date which is within the prescribed period of limitation. After being placed back within the prescribed period of limitation, the litigant would thereafter be "entitled" to file the appeal or application, as the case may be, as a "matter of right". There arises no such question of right insofar as the mechanism contemplated under Section 5 is concerned. Under Section 5, even after satisfying the court that sufficient cause existed, the litigant cannot claim the extension as a matter of right, since it is the exercise of discretion which is the decisive factor.

83. *To illustrate*, if the prescribed period of limitation for preferring some appeal/application is 180 days, and say, the litigant prefers the same appeal/application on the 300th day - Here, the effect of Section 5 would be that, if sufficient cause existed, the limitation period itself is extended such that it becomes 300 days. Now consider the same appeal/application for which the prescribed period of limitation is 180 days, and say, the applicant was prosecuting an abortive proceeding from the 120th day - Here, the effect of a Section 14 application would be that, if its pre-requisites are fulfilled, the clock is turned back and the applicant is placed, yet again, on the 120th day i.e., the date on which he could file the same appeal/application as a matter of right.

84. This nuanced distinction between extension and exclusion is relevant for our discussion on whether the principles underlying Sections 5 and 14 of the Act, 1963 could both be analogously applied to proceedings before quasi-judicial bodies because, as aforementioned, under Section 5, the courts exercise discretion in extending and more specifically, adjusting the prescribed period of limitation itself to create a fresh period of limitation. Whereas, insofar as Section 14 is concerned, the prescribed period of limitation remains intact. The mechanism envisaged under Section 5 is proximally bound and tethered to the discretion with which a civil court is empowered and that under Section 14 is anchored on restoring the right of a litigant to institute an appeal or application, as the case may be, within the prescribed period of limitation. This restoration is based on fixed and

well-defined conditions which leaves no room for any exercise of discretion. In other words, Section 14 allows the litigant to file the appeal or the application, as the case may be, as a matter of right by reinstating him on a specific point in the timeline wherein he is entitled to exercise the said right, whereas Section 5 acknowledges that he may not be entitled as a matter of right to file the appeal or the application, as the case may be, but extends time in his favour due to some inherent discretion vested in civil courts.

85. Both provisions work in the interest of the litigant and seek to further the cause of substantive justice, however, the kind and nature of the power exercised under the two provisions, as well as the mechanism envisaged therein, are quite distinct.

86. Another key difference between Sections 5 and 14 of the Act, 1963 respectively was pointed out by the decision of this Court in ***Sakaru v. Tanaji*** reported in **(1985) 3 SCC 590**. While Section 14 pertains to "computation of the period of limitation", Section 5 is a provision that comes into play once such a computation is already completed and the appeal or the application, as the case may be, is still beyond the prescribed period of limitation. To put it simply, the discretion to 'extend' time can only be contemplated once the process of computation (which includes 'exclusion' of time) is done with. The relevant observations are thus:

> *3. […] The provisions relating to computation of the period of limitation are contained in Sections 12 to 24 included in Part III of the Limitation Act, 1963. Section 5 is not a*

provision dealing with "computation of the period of limitation". It is only after the process of computation is completed and it is found that an appeal or application has been filed after the expiry of the prescribed period that the question of extension of the period under Section 5 can arise."
(Emphasis supplied)

87. Despite the differences delineated above, as a last resort, one could possibly cite the discussion undertaken by this Court in ***M.P. Steel*** *(supra)* whereby, Sections 6 and 14 of the Act, 1963 and their underlying principles were equated and it was stated that both can be analogously applied to quasi-judicial bodies. Moreover, one would also be right in pointing out that while Section 14 is a computation provision, Section 6 is not. In that context, the question would arise as to why the rationale adopted for Section 6 cannot be true for Section 5 as well?

88. We are of the view that there exist several identical features between Sections 6 and 14 of the Act, 1963 respectively and the same identity cannot be said to exist *vis-á-vis* Section 5. Section 6 which deals with "legal disability" is similar to Section 14 on several aspects – *First,* it is also a provision which envisages 'exclusion of time' and has nothing to do with extension of time. *Secondly,* the provision is also mandatory in nature and the use of the word "*may*" does not refer to the discretion granted to the court, but rather, the discretion given to the litigant to institute a suit or an application, as the case may be. *Thirdly,* it also indicates that after the period during which the legal disability persisted is excluded, the litigant is entitled to institute the

suit or the application, as the case may be, as a "matter of right". This is evident from the use of the words "*Where a person entitled…, as would otherwise have been allowed*".

89. As we have explained in the preceding paragraphs, such points of identity does not exist *vis-á-vis* Section 5.

90. In light of all the aforesaid, it is our view that the discretionary power to adjust the period of limitation itself, must be specifically granted to the concerned quasi-judicial body or tribunal and there must be a reasonable indication from the language of the statute that such a discretion which is otherwise vested in civil courts, is also vested in the concerned quasi-judicial body. We can think of two ways in which this can be done:

a. Through a proviso or a sub-section in the concerned section stating that the quasi-judicial body can extend time for filing the said appeal or application, as the case may be, upon the satisfaction that sufficient cause existed.

To illustrate, such a sub-rule or proviso may read thus - "*provided that the Company Law Board may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding 60 days*" or "*…within a further period of 60 days*" or "*…within a period of 60 days but not thereafter*".

Courts have interpreted such provisions to confer a limited discretionary power to the quasi-judicial bodies to extend time.

We say that it is limited because the exercise of such discretion is subject to an outer-limit (which is 60 days in our illustration). If no such outer-limit is prescribed, then the discretionary power to extend time would be unlimited.

b. Through a separate provision within the scheme of the entire legislation stating that the quasi-judicial body would be able to apply the provisions of the Act, 1963 (akin to that of Section 433 of the Act, 2013).

To illustrate, such a separate provision may read thus – "*The provisions of the Limitation Act, 1963 (36 of 1963) shall, as far as may be, apply to proceedings or appeals before the Company Law Board*".

Such a provision would have empowered the CLB to exercise the discretionary power to apply Section 5 of the Act, 1963. We say so also because, at present, the NCLT and NCLAT do exercise their discretionary powers to extend time, as regards proceedings and appeals before themselves, due to the coming into force of Section 433 of the Act, 2013. The only restriction to the exercise of such a discretion would be an outer-limit, if any, indicated by the concerned provision, owing to the use of the words "*as far as may be*" in provisions like Section 433 of the Act, 2013.

91. To obviate any confusion, we have noted that the phrase "*as far as may be*", by itself, may not be sufficient to preclude the application of Section 5 of the Act, 1963 altogether. The decision of this Court in ***Sesh Nath Singh and Another v. Baidyabati Sheoraphuli Co-***

operative Bank Limited and Another reported in **(2021) 7 SCC 313** provides some important clarification in that regard. Section 238-A of the Insolvency and Bankruptcy Code, 2016 (hereinafter, the "**IBC, 2016"**) is *pari materia* to that of Section 433 of the Act, 2013 and also employs the phrase "*as far as may be*". In discussing the meaning of this expression, this Court pointed out that due to the existence of Section 238-A, the provisions of the Act, 1963, including that of Section 5, would apply to proceedings or appeals instituted under the IBC, 2016. In other words, the NCLT, NCLAT, DRT and DRAT respectively, could exercise their discretion to extend time insofar as the IBC, 2016 is concerned. The relevant observations are thus:

> "*56. For the sake of convenience, and to avoid prolixity and unnecessary repetition, all the aforesaid issues are dealt with together. Section 238-A IBC provides that the provisions of the Limitation Act shall, as far as may be, apply to proceedings before the adjudicating authority (NCLT) and Nclat.*
>
> *57. It is well settled by a plethora of judgments of this Court as also different High Courts and, in particular, the judgment of this Court in B.K. Educational Services (P) Ltd. v. Parag Gupta & Associates [B.K. Educational Services (P) Ltd. v. Parag Gupta & Associates, (2019) 11 SCC 633 : (2018) 5 SCC (Civ) 528] NCLT/Nclat has the discretion to entertain an application/appeal after the prescribed period of limitation. The condition precedent for exercise of such discretion is the existence of sufficient cause for not preferring the appeal and/or the application within the period prescribed by limitation."*
>
> (Emphasis supplied)

92. However, suppose the concerned provision already provides that delay can only be condoned within a maximum outer-limit, then such an outer-limit would have to be harmoniously read with the expression "*as far as may be*" to curtail the power to exercise discretion in condoning delay within that outer-limit.

93. In the absence of any legislative intent being evident in the form of (a) or (b), it would not be proper for us to take the view that the principles underlying Section 5 must apply to such bodies, even by analogy. The argument that the principles underlying Sections 6 or 14 of the Act, 1963 respectively, could be applied to quasi-judicial bodies is not sufficient reason to hold the same insofar as Section 5 of the Act, 1963 is concerned.

ii. The decision of this Court in International Asset Reconstruction Company of India Limited.

94. As indicated by us in the preceding paragraphs, whether the provisions of the Act, 1963 stand excluded and more particularly, whether there is an embargo on the application of Section 5 of the Act, 1963 must be examined conscientiously, keeping in mind the overall scheme of the Act in question and the intention of the legislature. The decision of a three-judge bench of this Court in ***International Asset Reconstruction Company of India Limited v. Official Liquidator of Aldrich Pharmaceuticals Limited and Others*** reported in **(2017) 16 SCC 137** has shed light on how such an exercise

is to be conducted. It dealt with the application of Section 5 of the Act, 1963 to an appeal before the Debt Recovery Tribunal (hereinafter, the "**DRT**") under Section 30 of the Recovery of Debts and Bankruptcy Act, 1993 (hereinafter, the "**Act, 1993**").

95. It would be apposite to mention that Section 24 of the same Act read as follows: "*The provisions of the Limitation Act, 1963 (36 of 1963), shall, as far as may be, apply to an application made to a Tribunal.*" Upon a cursory reading of the aforesaid Section 24, one might assume that it is similar to that of Section 433 of the Act, 2013. However, a deeper analysis would reveal that while Section 433 of the Act, 2013 applies to "*proceedings or appeals*" before the NCLT or the NCLAT, Section 24 of the Act, 1993 applies only to an "*application*" made before the DRT. This was a crucial point of difference which proved to be instrumental to the issue with which ***International Asset Reconstruction Company*** *(supra)* was faced with, because it related to an 'appeal' and not an application made before the DRT.

96. Since the general rule is that the Act, 1963 would not apply to quasi-judicial bodies or tribunals, unless expressly specified, this Court turned its attention to any indication within the statute which could signal that Section 5 of the Act, 1963 was intended to be applied to 'appeals' made before the DRT as well. In doing so, it was observed thus:

> *"13. The RDB Act is a special law. The proceedings are before a statutory Tribunal. The scheme of the Act manifestly*

provides that the legislature has provided for application of the Limitation Act to original proceedings before the Tribunal under Section 19 only. The Appellate Tribunal has been conferred the power to condone delay beyond 45 days under Section 20(3) of the Act. The proceedings before the Recovery Officer are not before a Tribunal. Section 24 is limited in its application to proceedings before the Tribunal originating under Section 19 only. The exclusion of any provision for extension of time by the Tribunal in preferring an appeal under Section 30 of the Act makes it manifest that the legislative intent for exclusion was express. The application of Section 5 of the Limitation Act by resort to Section 29(2) of the Limitation Act, 1963 therefore does not arise. The prescribed period of 30 days under Section 30(1) of the RDB Act for preferring an appeal against the order of the Recovery Officer therefore cannot be condoned by application of Section 5 of the Limitation Act."

(Emphasis supplied)

97. It was observed that the power as regards condonation of delay was given to the DRT *via* Section 24 only when an original 'application' was made under Section 19 of the said Act and to the Appellate Tribunal *via* Section 20(3) when an appeal was made before it under Section 20. On the contrary, insofar as 'appeals' made to the DRT under Section 30 were concerned, it was held that the exclusion of Section 5 of the Act, 1963 was manifestly express.

98. The decision in ***International Asset Reconstruction Company*** *(supra)* furthers the proposition which has been well-cemented over the years that, one must carefully inspect and scrutinise the scheme of the Act and the intention of the legislature before conferring the

power to extend time or condone delay to quasi-judicial bodies or tribunals. The exercise must be rooted in vigilance and not haste.

iii. Whether the CLB Regulations confer any discretionary power to the CLB to extend time or condone delay under Section 5 of the Act, 1963?

99. In the facts and circumstances of the present case, the CLB seems to have traced its power to condone delay/extend time to Regulation 44 of the CLB Regulations. However, it is the submission of Ms. Nariman that the said regulation which saves the inherent powers of the CLB cannot be used to allow the circumvention of the mandatory time-limit prescribed for filing an appeal under Section 58 of the Act, 2013. Regulation 44 reads thus:

> "***44. Saving of inherent power of the Bench*** *– Nothing in these rules shall be deemed to limit or otherwise affect the inherent power of the Bench to make such orders as may be necessary for the ends of justice or to prevent abuse of the process of the Bench.*"

100. It is well-established that although the exercise of inherent powers are in addition to the powers specifically conferred on the concerned body or institution, yet such an exercise of power must be complementary to and not be in conflict with any express provision or be contrary to the intention of the legislature. It is only when a provision is silent as regards some procedural aspect that the inherent power can come to the aid of the parties. One must be

careful in ascertaining when there is an unintentional silence and when there exists a deliberate omission.

101. Moreover, this Court in ***Prakash H. Jain*** *(supra)* has already unequivocally stated that there cannot be any inherent power to extend the period of limitation prescribed for the filing of any appeal or application.

102. One could argue that it is the same inherent power which is exercised by a quasi-judicial body or tribunal when it applies the principles underlying Section 14 of the Act, 1963. However, as we have already explained, the principles underlying Sections 5 and 14 of the Act, 1963, could not be said to be on the same footing.

103. With respect to the issue with which we are concerned, we have already established that when the legislature has intended for a quasi-judicial body or a tribunal to apply the provisions of the Act, 1963, more particularly, confer the power of 'extension of time', they have indicated the same in some way or the other, in an express manner. Regulation 44 cannot be resorted to in order to confer a power upon the CLB which the legislature in their wisdom did not intend to confer.

104. To buttress this line of reasoning further, let us look at Regulations 25 and 43 of the CLB Regulations respectively:

> "***25. Hearing of petition*** *– The Bench may, if sufficient cause is shown at any stage of the proceeding grant time to the parties or any of them and adjourn the hearing of the petition or the application. The Bench may make such order as it thinks fit with respect to the costs occasioned by such adjournment.*
>
> *-xxx-*
>
> ***43. Enlargement of time*** *– Where any period is fixed by or under these regulations or granted by a Bench, for the doing of any act, or filing of any documents or representation, the Bench, may, in its discretion, from time to time, enlarge such period, even though the period fixed by or under these regulations or granted by the Bench may have expired.*"

105. Regulation 25 deals with the discretion given to the CLB to grant additional time on an altogether different aspect. It deals with granting time, upon showing that sufficient cause existed, for the 'adjournment' of a hearing of the petition or application, as the case may be. One must not conflate this with the power to enlarge or extend time for the filing of the petition or application itself with is dealt with by the Act, 2013.

106. This is precisely why Regulation 43 which deals with the enlargement of time has also carefully used the words "*Where any period is fixed by or under these regulations or granted by a Bench…*". This makes it clearly evident that the discretion to enlarge time which is dealt with under the CLB Regulations pertain to those aspects which are dealt with under the CLB Regulations only or those otherwise granted by the Bench. They have no relation whatsoever with the

prescribed period of limitation which governs the filing of the appeal or application under the Act, 2013 or its extension.

107. This discussion again goes to substantiate the view that, when the question is as regards the "extension of time" in the filing of an appeal or application itself, before a quasi-judicial body, we must be careful to not overread between the silences and instead, must look at whether there is any express indication to that effect. Whenever and wherever the legislature deemed it fit, it has granted either a limited or an unlimited power to extend time.

d. How Section 58(3) of the Act, 2013 which is a simpliciter provision prescribing a limitation period, must be construed.

108. Section 58 of the Act, 2013 under which provision the respondent herein filed an appeal before the CLB, is reproduced as thus:

> *"**58. Refusal of registration and appeal against refusal.** – (1) If a private company limited by shares refuses, whether in pursuance of any power of the company under its articles or otherwise, to register the transfer of, or the transmission by operation of law of the right to, any securities or interest of a member in the company, it shall within a period of thirty days from the date on which the instrument of transfer, or the intimation of such transmission, as the case may be, was delivered to the company, send notice of the refusal to the transfer or and the transferee or to the person giving intimation of such transmission, as the case may be, giving reasons for such refusal.*

(2) Without prejudice to sub-section (1), the securities or other interest of any member in a public company shall be freely transferable:

Provided that any contract or arrangement between two or more persons in respect of transfer of securities shall be enforceable as a contract.

(3) The transferee may appeal to the Tribunal against the refusal within a period of thirty days from the date of receipt of the notice or in case no notice has been sent by the company, within a period of sixty days from the date on which the instrument of transfer or the intimation of transmission, as the case may be, was delivered to the company.

(4) If a public company without sufficient cause refuses to register the transfer of securities within a period of thirty days from the date on which the instrument of transfer or the intimation of transmission, as the case may be, is delivered to the company, the transferee may, within a period of sixty days of such refusal or where no intimation has been received from the company, within ninety days of the delivery of the instrument of transfer or intimation of transmission, appeal to the Tribunal.

(5) The Tribunal, while dealing with an appeal made under sub-section (3) or sub-section (4), may, after hearing the parties, either dismiss the appeal, or by order –

(a) direct that the transfer or transmission shall be registered by the company and the company shall comply with such order within a period of ten days of the receipt of the order; or (b) direct rectification of the register and also direct the company to pay damages, if any, sustained by any party aggrieved.

(6) If a person contravenes the order of the Tribunal under this section, he shall be punishable with imprisonment for a term which shall not be less than one year but which may

extend to three years and with fine which shall not be less than one lakh rupees but which may extend to five lakh rupees."

109. Section 58(1) of the 2013 Act deals with a scenario wherein, a private company limited by shares, refuses to register the transfer or the transmission of the right to any securities or the interest of a member in the company, in favour of the transferee. This refusal may be in pursuance of any power of the company under its articles or otherwise. Such a refusal by the company must be made within a period of thirty days from the date on which the instrument of transfer or the intimation of such transmission, was delivered to the company. This refusal must be in the form of a reasoned notice, made either to the transferor and the transferee, or to the person giving intimation of the transmission to the company.

110. Section 58(3) is of particular significance to the present matter. It discusses the mechanism which must be adopted or the further course of action available to a transferee who is aggrieved by the decision of private company refusing to register the transfer or transmission of shares. According to Section 58(3), the transferee has to prefer an appeal before the NCLT (or the CLB during the period between 12.09.2013 and 01.06.2016) against the refusal of the company, within a period of thirty days from the date of receipt of the notice of refusal. In case no notice of refusal has been sent by the company, then the transferee has to prefer an appeal within a period

of sixty days from the date on which the instrument of transfer or intimation of transmission was delivered to the company.

111. The entire question of how a particular provision of a special statute must be construed, for the purposes of limitation, directly arises as a consequence of the savings provision in the Act, 1963, which reads thus:

> "***29. Savings.*** *– […] (2) Where any special or local law prescribes for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule, the provisions of section 3 shall apply as if such period were the period prescribed by the Schedule and for the purpose of determining any period of limitation prescribed for any suit, appeal or application by any special or local law, the provisions contained in sections 4 to 24 (inclusive) shall apply only in so far as, and to the extent to which, they are not expressly excluded by such special or local law.*"

112. Section 29(2) states that, if any special or local law prescribes a certain period of limitation for any suit, appeal or application, as the case may be, which is different from that of the Schedule to the Act, 1963, then it is that period of limitation under the special or local law which must be looked into and not those periods which are prescribed under the Schedule to the Act, 1963. Through a deeming fiction, the period prescribed under that special or local law is considered to be that which is prescribed under the Schedule to the Act, 1963 for the purpose of application of Section 3 of the Act, 1963.

113. Moving further, apart from ascertaining what would be the prescribed period of limitation, more often than not, the question is also whether Section(s) 4 to 24 (both inclusive) of the Act, 1963 could be made applicable to that specific provision in the special or local law. For this purpose, one must examine whether the special or local law expressly excludes the application of Sections 4 to 24 of the Act, 1963.

114. *For example,* take Section 34(3) of the Arbitration and Conciliation Act, 1996 with which this Court in ***Consolidated Engineering*** *(supra)* was concerned with. Ms. Arora has also laid particular emphasis on Section 34(3) of the Arbitration and Conciliation Act, 1996 to drive home her submission that there is no indication under Section 58(3) of the Act, 2013 which expressly excludes the application of Section 5 of the Act, 1963. Therefore, we deem it fit to explain the rationale underlying our reasoning using the same provision and it is reproduced as follows:

> *"(3) An application for setting aside may not be made after three months have elapsed from the date on which the party making that application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal:*
>
> *Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter."*
>
> (Emphasis supplied)

115. In the said provision, the prescribed period of limitation for filing an application to set aside an arbitral award is three months. Therefore, if looked at from the lens of Section 29(2) of the Act, 1963, it would mean that instead of applying Article 137 of the Schedule to the Act, 1963 which prescribes a three-year limitation period, one must give priority to the period so specifically prescribed by the legislature under the special act, which is three months.

116. The proviso to Section 34(3) then states that, upon sufficient cause being shown, the application to set aside an arbitral award could be entertained within a further period of thirty days but not thereafter. In light of the language used, what then has to be determined is whether any provision within Sections 4 to 24 of the Act, 1963 was expressly excluded.

117. A reading of the proviso to Section 34(3) reveals that the application of Section 5 of the Act, 1963 has been restricted or rather, curtailed to an outer-limit of thirty days by the use of the phrase "*within a further period of thirty days but not thereafter*". In other words, in Section 34(3) of the Arbitration and Conciliation Act, 1996, Section 5 of the Act, 1963 which pertains to extension of time upon the showing of sufficient cause, is only applicable to a limited extent and is confined to that thirty-day additional period. The same was buttressed in the decision of this Court in ***Simplex Infrastructure Limited v. Union of India*** reported in **(2019) 2 SCC 455.**

118. However, insofar as Section 14 of the Act, 1963 was concerned, this Court in ***Consolidated Engineering*** *(supra)* held that it has not been expressly excluded by Section 34(3) of the Arbitration and Conciliation Act, 1996 and could apply to its fullest extent i.e., even without any outer-limit.

119. What the aforesaid example indicates is that the question of whether a certain provision in a special or a local law expressly excludes the provisions of Section 4 to 24 of the Act, 1963 arises only in pursuance of the savings provision under Section 29(2) of the Act, 1963. As a natural corollary, if Section 29(2) is, by itself, inapplicable to a particular case then there would be no need to look into or analyse whether there is any express exclusion.

120. This Court in ***Ganesan*** *(supra)* has unequivocally held that Section 29(2) of the Act, 1963 only relates to those provisions in the special or local law which deal with suits, applications or appeals, which are to be filed before a 'court'. Therefore, when a special or a local law deals with the filing of a suit, application or appeal, as the case may be, before quasi-judicial bodies or tribunals, the savings provision in Section 29(2) of the Act, 1963 does not have any relevance. The relevant observations are reproduced hereinbelow:

> *"60.1. The applicability of Section 29(2) of the Limitation Act is with regard to different limitations prescribed for any suit, appeal or application when to be filed in a court.*
> *60.2. <u>Section 29(2) cannot be pressed in service with regard to filing of suits, appeals and applications before the statutory</u>*

> *authorities and tribunals provided in a special or local law. The Commissioner while hearing of the appeal under Section 69 of the 1959 Act is not entitled to condone the delay in filing appeal, since, provision of Section 5 shall not be attracted by strength of Section 29(2) of the Act.*"
>
> (Emphasis supplied)

121. ***M.P. Steel*** *(supra)* had also indicated that which was subsequently laid down in ***Ganesan*** *(supra)* and stated that the special or local law referred to in Section 29(2) of the Act, 1963 must concern itself with a suit, application or appeal of the nature described in the Schedule to the Act, 1963 i.e., those that are filed before 'courts'. Therefore, Section 29(2) would not get attracted when the suit, application or appeal referred to in the special law relates to those which are made before quasi-judicial bodies. The relevant observations are thus:

> "*33. […] A bare reading of this section would show that the special or local law described therein should prescribe for any suit, appeal or application a period of limitation different from the period prescribed by the Schedule. This would necessarily mean that such special or local law would have to lay down that the suit, appeal or application to be instituted under it should be a suit, appeal or application of the nature described in the Schedule. We have already held that such suits, appeals or applications as are referred to in the Schedule are only to courts and not to quasi-judicial bodies or tribunals. It is clear, therefore, that only when a suit, appeal or application of the description in the Schedule is to be filed in a court under a special or local law that the provision gets attracted. […]*"
>
> (Emphasis supplied)

122. In the example which we had discussed, the provision in the special law i.e., Section 34(3) of the Arbitration and Conciliation Act, 1996, was one which dealt with an application to be made before a 'court'.

It fell within the scope of Section 29(2) of the Act, 1963 and therefore, one could indulge with the aspect of express exclusion with respect to Section 34(3) of the Arbitration and Conciliation Act, 1996.

123. In the present case, we need not undertake any exhaustive examination as to whether Section 58(3) of the Act, 2013 expressly excludes the application of Section 5 of the Act, 1963 because of the non-application of Section 29(2) of the Act, 1963. The non-application of Section 29(2) of the Act, 1963 is in turn owing to Section 58(3) of the Act, 2013 being concerned with an appeal which is to be made before a quasi-judicial body and not before a 'court'.

124. The general rule as regards any appeal or application filed before a 'court' is that the provisions of the Act, 1963 would apply, unless indicated otherwise. This is precisely why one enters into the debate of "express exclusion". However, the reverse is the general rule insofar as quasi-judicial bodies or tribunals are concerned i.e., that the provisions of the Act, 1963 do not apply, unless indicated otherwise. Therefore, the focus would shift to whether there is any "express inclusion" rather than an "express exclusion". An exception to this shift in focus, or in other words, a reason why one would still look at whether sections 4 to 24 of the Act, 1963 is "expressly excluded" is when the argument that the principles underlying certain provisions of the Act, 1963, like Section 6 or 14 must be made applicable to quasi-judicial bodies, succeeds or is being considered. This was the situation in ***Parson Tools*** *(supra)* and ***M.P. Steel*** *(supra).*

However, we have assigned elaborate reasons as to why we are not inclined to apply the principles underlying Section 5 of the Act, 1963 to quasi-judicial bodies or tribunals. Therefore, there arises no occasion for us to explore this aspect of express exclusion.

125. In light of the aforesaid, we find no merit in the submission put forth by Ms. Arora that even before the coming into force of Section 433 of the Act, 2013, there was no express exclusion of the provisions of the Act, 1963 and therefore, the CLB could be said to have the power under Section 5 of the Act, 1963 to condone the delay in preferring the appeal under Section 58(3) of the Act, 2013. The absence of express exclusion, by itself, cannot be said to have conferred the CLB with the power to condone delay.

126. Having said the above, the next question which arises is regarding how the simpliciter limitation period prescribed under Section 58(3) of the Act, 2013, must be construed? To answer this, we find it apposite to bring forth certain observations made by this Court in ***Fairgrowth Investments Ltd v. Custodian*** reported in **(2004) 11 SCC 472**. The relevant observations are thus:

> *"9. We are of the view that the provision prescribing a time-limit for filing a petition for objection under Section 4(2) of the Act is mandatory in the sense that the period prescribed cannot be extended by the court under any inherent jurisdiction of the Special Court. Prescribed periods for initiating or taking steps in legal proceedings are intended to be abided by, subject to any power expressly conferred on the court to condone any delay. Thus the Limitation Act, 1963 provides for different periods of limitation within which suits,*

appeals and applications may be instituted or filed or made as the case may be. It also provides for exclusion of time from the prescribed periods in certain cases, lays down bases for computing the period of limitation prescribed and expressly provides for extension of time under Section 5 in respect of certain proceedings. If the periods prescribed were not mandatory, it was not necessary to provide for exclusion or extension of time in certain circumstances nor would the method of computation of time have any meaning.

10. Section 4(2) of the Act plainly read simply requires a person objecting to a notification issued under sub-section (2) of Section 3 to file a petition raising such objections within 30 days of the issuance of such notification. The words are unequivocal and unqualified and there is no scope for reading in a power of court to dispense with the time-limit on the basis of any principle of interpretation of statutory provisions. In R. Rudraiah v. State of Karnataka [(1998) 3 SCC 23] it was contended on behalf of the appellants that Section 48-A of the Karnataka Land Reforms Act, 1961 which provided for the making of an application within a particular period should be construed liberally in favour of tenants so that the period was to be read as extendable. The submission was rejected on the ground that the language of Section 48-A was unambiguous and could not be interpreted differently only on the ground of hardship to the tenants.

11. The mere fact that the Special Court may have been imbued with the same status of a High Court would not alter the situation. We are of the view that it was not necessary for Section 4(2) of the Act to use additional peremptory language such as "but not thereafter" or "shall" to mandate that an objection had to be made within 30 days. The mere use of the word "may" in Section 4(2) of the Act does not indicate that the period prescribed under the section is merely directory. The word "may" merely enables or empowers the objector to file an objection. The language in Section 4(2) of the Act may be compared with Sections 4 and 6 of the Limitation Act, 1963. Section 4 of the Limitation Act provides:

> *"4. Expiry of prescribed period when court is closed. — Where the prescribed period for any suit, appeal or application expires on a day when the court is closed, the suit, appeal or application may be instituted, preferred or made on the day when the court reopens."*
>
> *Certain sub-sections of Section 6 of the Limitation Act also provide for the period within which a minor or insane or an idiot may institute suits. It cannot be contended that the word "may" in these sections indicates that the prescribed periods were merely directory. This Court in Mangu Ram v. Municipal Corpn. of Delhi [(1976) 1 SCC 392 : 1976 SCC (Cri) 10] described statutory provisions of periods of limitation as "mandatory and compulsive" and also said: (SCC p. 397, para 7)*
>
> *"It is because a bar against entertainment of an application beyond the period of limitation is created by a special or local law that it becomes necessary to invoke the aid of Section 5 (of the Limitation Act) in order that the application may be entertained despite such bar."*
>
> *12. If the power to condone delay were implicit in every statutory provision providing for a period of limitation in respect of proceedings before courts, Section 29(2) of the Limitation Act, 1963 would be rendered redundant. We will discuss the scope and applicability of Section 29(2) in greater detail subsequently."*
>
> (Emphasis supplied)

127. What we understand from the aforesaid observations in ***Fairgrowth*** *(supra),* is that:

i. ***First,*** the prescribed periods for the initiation or taking of any steps in pursuance of legal proceedings, even insofar as the traditional civil courts are concerned, are generally intended to be abided by. If in case all prescribed periods were not mandatory and only directory, then there would have been no

necessity to provide for the exclusion or the extension of time under the Act, 1963 under certain circumstances and the method of computation of time would also not have any meaning.

ii. ***Secondly,*** it is only after considering the mandatory nature of the prescribed periods that the civil court is empowered under Section 5 of the Act, 1963 to condone delay. If the said provision were not present then even civil courts would not have had the power to condone delay. Hence, any quasi-judicial body or tribunal which otherwise does not fall within the ambit of Section 5 of the Act, 1963 and which is also not specifically empowered to condone delay, cannot extend time under the notion that the prescribed period is only directory.

iii. ***Thirdly***, when the provision, in a plain, unequivocal and unqualified manner, states that something must be done within a said period of time, there would be no scope to read in any ancillary power to dispense with the said time-limit. The existence of any additional pre-emptory language in the form of "*but not thereafter*" or "*shall*" would not be necessary to convey the mandate of the prescribed period.

iv. ***Lastly***, the mere use of the word "*may*", in all situations, would not indicate that a period prescribed is merely directory. In a lot of contexts, the word "*may*" has been used to indicate the option available to a certain person to file an application, appeal or objection. To put it simply, it could just signify that someone would be enabled or empowered to do something.

128. Section 58(3) of the Act, 2013 uses the expression "*The transferee may appeal to the Tribunal*". As elucidated in ***Fairgrowth*** *(supra),* we are also of the view that the use of this word does not directly give rise to any inference that the limitation period prescribed therein is only directory.

129. Therefore, the respondent herein must have preferred his appeal under Section 58(3) of the Act, 2013 before the CLB, strictly within the time-limit prescribed therein.

III. Whether Section 433 of the Act, 2013 must be made retrospectively applicable or the change in law during the pendency of the appeal must be taken into account in the facts and circumstances of the present case?

130. As indicated previously, Section 433 of the Act, 2013 was brought into force w.e.f 01.06.2016 i.e., from the same date on which the NCLT and the NCLAT respectively came to be constituted. In the phased manner of implementation of the provisions of the Act, 2013, such a decision to time the coming into force of Section 433 in a way that coincides with the creation of the NCLT and NCLAT respectively, was clear and conscious. This, by itself, is a good indication to steer away from the retrospective application of Section 433 in favour of the CLB.

131. Further, in the course of our initial discussion on whether the provisions of the Act, 1963 could, per say, be said to apply to quasi-judicial bodies, we had also indicated that the jurisprudence surrounding the application of the Act, 1963 is body/institution specific. In other words, the first step in approaching all such matters is to see whether the concerned body could be said to be a 'civil court' or not. If answered in the negative, then the endeavour is to figure out whether that body has been specifically empowered to apply the provisions of the Act, 1963. The general rule insofar as quasi-judicial bodies or tribunals are concerned, is that the provisions of the Act, 1963 do not apply unless indicated otherwise. Therefore, "express inclusion" as we had indicated earlier, must be present.

132. It is in this background that we are of the view that Section 433 which empowers the NCLT and the NCLAT respectively to apply the provisions of the Act, 1963, as far as may be, to proceedings and appeals before itself, cannot be borrowed to signify the existence of a similar power with respect to the CLB. Although much of what the CLB was doing earlier is being done by the NCLT presently, both are different bodies, created at different times and endowed with different powers.

133. We had also contemplated on whether the period between 12.09.2013 and 01.06.2016 should be treated differently and whether the powers exercised by the NCLT by virtue of Section 433 of the Act, 2013 must be extended to the CLB during this specific window of time.

However, the scheme of the Act, 2013 and the manner in which it was implemented leaves no room for such an interpretation. It was fairly clear that it was the CLB which would function as the adjudicating authority in respect of several matters during this period until the NCLT was created and there remained no confusion on whether the CLB's powers had been enhanced in any manner or not.

134. In ***B.K. Educational Services Private Limited v. Parag Gupta and Associates*** reported in **(2019) 11 SCC 633**, the question admittedly related to the retrospective application of Section 238-A of the IBC, 2016 which provision was *pari materia* to Section 433 of the Act, 2013. However, the background in which it was raised was altogether different.

135. The issue in ***B.K. Educational Services*** *(supra)* was whether Section 238-A of the IBC, 2016 (*pari materia* to Section 433 of the Act, 2013) which was inserted through the Amendment Act of 2018 with effect from 06.06.2018 could be said to have retrospective application from the date of commencement of the IBC, 2016 i.e. from 01.12.2016. In examining the reason behind the introduction of Section 238-A, it was culled out that the legislature had always intended for the Act, 1963 and the rules of limitation to apply to the IBC, 2016, especially with respect to the applications filed under Sections 7 and 9 of the IBC, 2016 respectively. In other words, the issue therein related to the retrospective application of the provision of an amending Act which was clarificatory in nature.

136. It is also of note that in ***B.K. Educational Services*** *(supra),* in the period between 01.12.2016 and 06.06.2018 i.e., the period for which retrospective application was sought, it was still the NCLT that was hearing applications under Sections 7 and 9 of the IBC, 2016 respectively. To put it simply, it was not a case wherein a different body was adjudicating the applications filed under Sections 7 and 9 respectively during 06.06.2018 and 01.12.2016. The issue was simple – when the NCLT was explicitly empowered to apply the provisions of the Act, 1963 on and after 06.06.2018 by way of Section 238-A of the IBC, 2016, could it be said that the NCLT also would have been empowered to apply the Act, 1963 before 06.06.2018?. This was what was answered in the affirmative.

137. Moreover, one another significant aspect in ***B.K. Educational Services*** *(supra)* was that, as on 01.06.2016, the NCLT was already empowered under Section 433 of the Act, 2013 to apply the provisions of the Act, 1963. This power of the NCLT was said to apply even when the NCLT decided applications under Sections 7 and 9 of the IBC, 2016 respectively. The same is evident from the observation in ***B.K. Educational Services*** *(supra)* that – "*Given the fact that the "procedure" that would apply to NCLT would be the procedure contained inter alia in the Limitation Act, it is clear that NCLT would have to decide applications made to it under the Code in the same manner as it exercises its other jurisdiction under the Companies Act.*"

138. In light of all these differences, any reliance on ***B.K. Educational Services*** *(supra)* to further the argument that Section 433 of the Act, 2013 must be applied to the CLB, would be unfounded.

139. This issue may be viewed at from one another angle. It is no more *res integra* that limitation being a procedural law, a change in law in that regard applies retrospectively. However, this general principle has certain exceptions – (a) the new law of limitation providing for a longer period cannot revive a dead remedy and, (b) the new law of limitation cannot suddenly extinguish a vested right of action by providing for a shorter period of limitation.

140. Some pertinent observations in this regard was made by the decision of this Court in ***Thirumalai Chemicals Limited v. Union of India and Others*** reported in **(2011) 6 SCC 739** and the same is reproduced as follows:

> *"**Law of limitation***
> *29. Law of limitation is generally regarded as procedural and its object is not to create any right but to prescribe periods within which legal proceedings be instituted for enforcement of rights which exist under substantive law. On expiry of the period of limitation, the right to sue comes to an end and if a particular right of action had become time-barred under the earlier statute of limitation the right is not revived by the provision of the latest statute. Statutes of limitation are thus retrospective insofar as they apply to all legal proceedings brought after their operation for enforcing cause of action accrued earlier, but they are prospective in the sense that they neither have the effect of reviving the right of action which is*

already barred on the date of their coming into operation, nor do they have the effect of extinguishing a right of action subsisting on that date. Bennion on Statutory Interpretation, 5th Edn. (2008), p. 321 while dealing with retrospective operation of procedural provisions has stated that provisions laying down limitation periods fall into a special category and opined that although prima facie procedural, they are capable of effectively depriving persons of accrued rights and therefore they need be approached with caution.

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32. Limitation provisions therefore can be procedural in the context of one set of facts but substantive in the context of different set of facts because rights can accrue to both the parties. In such a situation, test is to see whether the statute, if applied retrospectively to a particular type of case, would impair existing rights and obligations. An accrued right to plead a time bar, which is acquired after the lapse of the statutory period, is nevertheless a right, even though it arises under an Act which is procedural and a right which is not to be taken away pleading retrospective operation unless a contrary intention is discernible from the statute. Therefore, unless the language clearly manifests in express terms or by necessary implication, a contrary intention a statute divesting vested rights is to be construed as prospective."

(Emphasis supplied)

141. What is therefore evident is that, if the retrospective application of a procedural law, including that of limitation, affects or divests vested rights, the general rule that procedural law must be given retrospective effect, could be deviated from. In such cases, giving

prospective effect may be favoured even if the matter pertains to limitation. However, if no such vested right could be said to exist, then giving retrospective effect is the way to go.

142. In ***Thirumalai Chemicals*** *(supra)*, the cause of action arose when the Foreign Exchange Regulation Act, 1973 (hereinafter, the "**FERA**") was in force, but the impugned orders were issued when the Foreign Exchange Management Act, 1999 (hereinafter, the "**FEMA**") was in force. The difference in the two regimes insofar as the limitation period for filing an appeal was concerned was that, in the former regime, the prescribed period of limitation was 45 days and delay could be condoned upon sufficient cause being shown for an additional period of 90 days. In the latter regime, the prescribed period of limitation was 45 days and delay could be condoned upon sufficient cause being shown without any outer-limit. The appeal therein was admittedly belated. The issue related to whether the power to condone delay under the old regime or the new regime must be looked at

143. In ***Thirumalai Chemicals*** *(supra),* this Court applied the provisions of the new regime based on the general principle that matters of procedure, including limitation, are to be given retrospective effect. Moreover, since the impugned orders were issued when the new regime was already in force, there was no vested right which accrued to the opposite party to plead any time bar in filing the appeal based on the old regime. In other words, the opposite party did not have

any vested right to claim that delay could not be condoned beyond a period of 90 days as laid out in the old regime.

144. The facts and circumstances of the present case are slightly different from that in ***Thirumalai Chemicals*** *(supra).* As aforementioned, the newer law of limitation which is applicable to the matter cannot revive a dead remedy. In the facts of our case, the appellant company issued its notice refusing to register the transmission of shares on 30.04.2013 i.e., during a time when the regime under the Erstwhile Act was in vogue. More specifically, it was Section 111(2) r/w Section 111(3) of the Erstwhile Act which governed the field. According to those provisions, the respondent herein must have preferred an appeal before the CLB within a period of two months from the date of the notice of refusal i.e., before 30.06.2013. It is not in dispute that the respondent failed to file such an appeal before 30.06.2013. There existed no power to condone delay with the CLB during this period. Therefore, the remedy under Section 111(2) r/w Section 111(3) of the Erstwhile Act was already dead, much before the coming into force of Section 58 of the Act, 2013 on 12.09.2013 let alone the coming into force of Section 433 of the Act, 2013 on 01.06.2016.

145. Hence, in such a scenario, it would not be permissible for one to say that the power to condone delay which has been given to the NCLT beginning from 01.06.2016 must enure to the benefit of an appeal which had become time-barred much before the commencement of

the Act, 2013. If such an argument is accepted then it would have the consequence of affecting vested rights.

146. In light of the aforesaid, we do not wish to engage in any further discussion on whether the change in law due to the coming into force of Section 433 of the Act, 2013 had any bearing on the present case.

147. Before we conclude, we deem it appropriate to discuss certain decisions of this Court and of the Calcutta High Court, upon which the impugned decision had placed considerable reliance.

148. *First,* is the decision of a three-judge bench of this Court in ***Canara Bank*** *(supra)* which dealt with whether the CLB could be considered to be a 'civil court' for the purposes of Section 9-A of the Special Court (Trial of Offences Relating to Transactions in Securities) Act, 1992 (hereinafter, the "**Act, 1992**"). Interestingly, this question was also raised in the background of Section 111(2) r/w Section 111(3) of the Erstwhile Act (now Section 58(3) of the Act, 2013). Therein, if the CLB was to be considered a 'civil court' for the purposes of Section 9-A of the Act, 1992, then its jurisdiction *vis-à-vis* a suit, claim or other legal proceeding that overlapped with those under the purview of the Special Court, would be affected. In other words, those matters could be transferred from the CLB to the Special Court.

149. Keeping in view the object of the Act, 1992, this Court thought it appropriate to attribute a wider meaning to the word 'civil court'

used in Section 9-A to encompass not only the traditional courts of civil judicature but all bodies, both courts and tribunals, which act judicially to deal with matters and claims. This interpretation was tailored in light of the mischief which was sought to be curtailed and the remedy sought to be advanced by the Act, 1992.

150. Therefore, the decision in ***Canara Bank*** *(supra)* was very specific to the Act, 1992 and was given in the context of the peculiar legal issue involved therein i.e., transfer of proceedings from the CLB to the Special Court. This decision cannot come to the aid of the respondents for the proposition that the CLB must also be considered to be a 'court' for the purposes of the Act, 1963 and more specifically, for the purpose of condonation of delay/extension of time.

151. *Secondly,* the impugned decision has also placed considerable reliance on the Division Bench decision of the Calcutta High Court in ***Nupur Mitra*** *(supra).* Therein, the CLB was faced with an application under Section 111(4) of the Erstwhile Act for the rectification of the register (corresponding to Section 59 of the Act, 2013) and was not dealing with an appeal against the refusal to register the transfer or transmission of shares under Section 111(2) r/w Section 111(3) of the Erstwhile Act (corresponding to Section 58 of the Act, 2013).

152. This difference is crucial because under Section 111(4) of the Erstwhile Act and Section 59 of the Act, 2013, there is no period of limitation which has been prescribed by the legislature. In other

words, the making of an application for the rectification of register under both the Erstwhile Act and the Act, 2013 is not bound by a specific time-limit. On the other hand, under Section 111(2) r/w Section 111(3) of the Erstwhile Act and Section 58(3) of the 2013, Act, there is a specific period within which an appeal against the refusal to register the transfer or transmission of shares has to be filed before the CLB or the NCLT.

153. We are not concerned with an appeal made under Section 59 of the Act, 2013 for the rectification of the register which has no prescribed period of limitation. Rather our focus is on Section 58 of the Act, 2013 under which the legislature has specified a particular time period within which an appeal must be preferred. Therefore, on this aspect alone, we are of the view that the observations of the Calcutta High Court in ***Nupur Mitra*** *(supra)* as regards limitation are of no relevance to the present matter.

154. Even otherwise, the decision in ***Nupur Mitra*** *(supra)* did not conclusively hold that the Act, 1963 would apply to an application for the rectification of register under Section 111(4) of the Erstwhile Act. It was stated that – "*Assuming that the Limitation Act, 1963 does apply, in the absence of a specific provision covering applications under section 111, the residuary article namely Article 137 would apply. If the cause of action arose in 1996 as claimed by the appellants, the application under section 111 having been filed in 1998 would be within time.*" This was also observed in light of the fact that, irrespective of whether the

Act, 1963 applied or not, the conclusion was that the application under Section 111(4) therein was not time-barred. Therefore, we are not persuaded by the respondent's reliance on the observations made in ***Nupur Mitra*** *(supra).*

155. It was under such circumstances that this Court in ***Basubani Private Ltd. and Anr v. Nupur Mitra and Ors.*** (**Civil Appeal Nos. 5063-5064 of 1999)** considered it appropriate to not interfere with the observations made in ***Nupur Mitra*** *(supra).*

156. *Lastly,* considerable reliance was also placed on the decision of a Single Judge of the Calcutta High Court in ***Mackintosh*** *(supra)* wherein it was stated that although Section 58(4) of the Act, 2013 prescribes a certain time-limit within which an appeal must be filed, yet nothing could be said to prevent the CLB from receiving the appeal thereunder beyond the stipulated period. The reasoning underlying the said conclusion was two-fold – (a) it is judicially recognised that the principles contained in the Act, 1963 would be applicable to the matters before the CLB and, (b) the provision does not explicitly prohibit the receipt of an appeal thereunder after the expiry of the time-limit indicated therein. Insofar as the aforesaid two-pronged reasoning is concerned, we have already explained as to how the principles underlying Section 5 of the Act, 1963 stand on a different footing and also that the use of any additional pre-emptory language should not always be a requirement to read the

prescribed period of limitation as mandatory. Therefore, we are unable to agree with the views expressed in ***Mackintosh*** *(supra).*

157. The decision in ***Mackintosh*** *(supra)* was challenged by way of an SLP before this Court in ***Mackintosh Burn Ltd. v. Sarkar and Chowdhury Enterprises Private Limited*** reported in **(2018) 5 SCC 575.** However, the main issue canvassed was whether the High Court must have decided the other questions of law which was raised in the statutory appeal, apart from the question of limitation. This Court answering in the affirmative stated that the High Court must have considered all the grounds taken by the appellant justifying their refusal to register the shares in favour of the respondent and not restricted itself to the sole question of whether the CLB could have received the appeal under Section 58(4) beyond the prescribed period therein. By observing so, this Court had answered certain other questions of law and remanded the matter to the NCLT for a decision on merits.

158. While remanding the matter, this Court did not explicitly express any agreement with the position as regards the power of the CLB to condone delay taken in ***Mackintosh*** *(supra).*

159. Ms. Nariman had also made certain submissions on the question whether the proceedings under Section 58(3) of the Act, 2013 are original proceedings in the nature of a suit or not, particularly because neither Section 5 of the Act, 1963 nor its principles could apply to proceedings which are of an original nature. However,

having already reached the conclusion that neither Section 5 of the Act, 1963 nor its underlying principles could be said to be applicable to an appeal filed before the CLB under Section 58(3) of the Act, 2013 owing to it being a quasi-judicial body which has not been empowered to extend time or condone delay, there arises no need for us to address this additional submission.

G. CONCLUSION

160. A conspectus of the legal and factual discussion on the power of the CLB to extend time or condone delay under Section 58(3) of the Act, 2013 is as follows:

i. The appeal under Section 58(3) of the Act, 2013 preferred by the respondent herein was filed during the period between 12.09.2013 and 01.06.2016. Therefore, although the appeal was made under the new provision of the Act, 2013, yet the body/forum before which it was made i.e., the CLB, was one constituted under the provisions of the Erstwhile Act. According to Section 10E(4C) of the Erstwhile Act, the CLB was a court only in the restricted sense. There existed no express provision which empowered the CLB to apply the provisions of the Act, 1963 to the proceedings and appeals before itself.

ii. In multiple decisions of this Court, notable and significant emphasis has been placed on which institution/body is seeking

to employ the provisions of the Act, 1963 or exercise the powers conferred under the Act, 1963.

iii. The provisions of the Act, 1963 (provisions that lay down a prescribed period of limitation as well as Sections 4 to 24 of the Act, 1963 respectively) would only apply to suits, applications or appeals, as the case may be, which are made under any law to 'courts' and not to those made before quasi-judicial bodies or tribunals, unless such quasi-judicial bodies or tribunals are specifically empowered in that regard.

iv. In ***Officer on Special Duty*** *(supra),* ***Prakash H. Jain*** *(supra)* and ***Om Prakash*** *(supra)* respectively, this Court has unequivocally held that the power to extend time under Section 5 of the Act, 1963 cannot be resorted to by statutory authorities, quasi-judicial bodies or tribunals, unless expressly indicated. It has been clarified that when such authorities or bodies are deemed to be a court for certain limited or specified purposes, such a legal fiction must not be extended beyond the purpose for which the fiction was created so as to confer powers under Section 5 of the Act, 1963 as well.

v. In ***Parson Tools*** *(supra)* and ***M.P. Steel*** *(supra)* respectively, this Court has developed a body of jurisprudence indicating that the principles underlying Section 14 of the Act, 1963 could be applied to the provisions relating to quasi-judicial bodies, unless

there is any express indication to the contrary in the wording and scheme of the said provision. However, there exists a vital distinction between the principles underlying Sections 5 and 14 respectively.

vi. The differences between the principles underlying Sections 5 and 14 of the Act, 1963 respectively are as follows - *First,* one pertains to the exercise of a discretionary power vested in the courts and the other is a mandatory provision independent of any exercise of discretion; *Secondly,* one refers to "*sufficient cause*" which term by itself is subject to a good amount of elasticity and the other has delineated well-defined conditions which must be met; and *Lastly,* one deals with the extension of time while the other is concerned with the exclusion of time.

vii. The principles underlying Sections 5 and 14 of the Act, 1963 respectively, cannot be analogously applied to proceedings before quasi-judicial bodies because in the former, the courts exercise their discretion in extending and more specifically, adjusting the prescribed period of limitation itself to create a fresh period of limitation. No entitlement as a matter of right arises *vis-à-vis* extension of time. Whereas, in the latter, the prescribed period of limitation remains intact, no delay is attributed to the litigant and the time during which the abortive proceeding was being prosecuted is expunged in the eyes of the law to place the litigant back or restore his position within the

prescribed period of limitation wherein he is entitled to file the appeal or application, as the case may be, as a matter of right.

viii. The mechanism envisaged under Section 5 is proximally bound and tethered to the discretion with which a civil court is empowered and that under Section 14 is anchored on restoring the right of a litigant to institute an appeal or application, as the case may be, within the prescribed period of limitation. Both provisions work in the interest of the litigant and seek to further the cause of substantive justice, however, the kind and nature of the power exercised under the two provisions, as well as the mechanism envisaged therein, are quite distinct.

ix. Moreover, the principles underlying Sections 5 and 14 of the Act, 1963 respectively also stand on a different footing for the reason that when the legislature has intended to grant powers of extension of time, the same has been expressly indicated either through the manner in which the concerned provision is phrased (more often than not through a proviso) or by the adoption of the Act, 1963 through a separate provision to the special law as a whole (akin to Section 433 of the 2013, Act).

x. Therefore, the decision of this Court in ***M.P. Steel*** *(supra)* would not apply analogously to a situation when the principles underlying Section 5 of the Act, 1963 are sought to be applied by quasi-judicial bodies which aren't empowered in that regard.

xi. Regulation 44 of the CLB Regulations which saves the inherent power of the CLB would not enable the CLB to extend time for the filing of the appeal or the application itself, as the case may be.

xii. In ***Ganesan*** *(supra)*, it has been settled that the savings provision in the Act, 1963 i.e., Section 29(2), is of no relevance when the special or local law deals with a suit, appeal or application, as the case may be, which is to be filed before a quasi-judicial body. The question whether a certain provision in a special or a local law expressly excludes the provisions of Sections 4 to 24 of the Act, 1963 respectively arises only in pursuance of the savings provision under Section 29(2) of the Act, 1963. As a natural corollary, if Section 29(2) is, by itself, inapplicable to a particular case then there would be no need to look into or analyse whether there is any express exclusion.

xiii. An exception to the aforesaid, i.e., a reason why one would still look at whether Sections 4 to 24 of the Act, 1963 respectively are "expressly excluded" irrespective of the application of Section 29(2) of the Act, 1963, is when the argument that the principles underlying those provisions of the Act, 1963, must be applied, is being explored.

xiv. Presently, we are dealing with an appeal under Section 58(3) of the Act, 2013 preferred before the CLB – a quasi-judicial body.

We have also answered in the negative on the submission that the principles underlying Section 5 of the Act, 1963 must be applied. Section 29(2) of the Act, 1963 is, therefore, of no relevance and there arises no occasion to examine whether Section 58(3) of the Act, 2013 "expressly excludes" the application of Section 5 of the Act, 1963.

xv. The simpliciter limitation period prescribed under Section 58(3) of the Act, 2013 must not be read to be merely directory. The presence of any additional pre-emptory language in the form of "*but not thereafter*" or "*shall*" would not always be necessary to convey that the prescribed period is mandatory.

xvi. Section 433 of the Act, 2013 which empowers the NCLT and the NCLAT respectively to apply the provisions of the Act, 1963, as far as may be, to the proceedings and appeals before itself, cannot be borrowed to signify the existence of a similar power with respect to the CLB. Moreover, the remedy of the respondent was already time-barred before the coming into force of Section 58(3) of the Act, 2013, let alone the coming into force of Section 433 of the Act, 2013. Hence, the change in law cannot enure to the benefit of the present respondent.

161. In the overall view of the matter, we have reached the conclusion that the High Court could be said to have committed an error in dismissing the statutory appeal filed under Section 10F of the

Erstwhile Act and thereby, affirming the order of the CLB condoning the delay of 249 days in filing the appeal under Section 58(3) of the Act, 2013.

162. In the result, this appeal succeeds and is hereby, allowed. The impugned judgement and order of the High Court is set-aside.

163. Pending applications, if any, shall also stand disposed of.

……J.

(J. B. PARDIWALA)

……..J.

(R. MAHADEVAN)

New Delhi,

7th January, 2026.