

Whether the 90 day period under CIRP Regulation 12(2) a mandatory timeline for filing claim which had to be adhered to, or could any delay beyond 90 days be condoned by either the IRP/RP or the NCLT?

The question that arises is whether the 90 day period referred to in Regulation 12(2) a mandatory timeline which had to be adhered to, or could any delay beyond 90 days be condoned by either the IRP/RP or the NCLT? In the recent orders/judgements, the Hon'ble Tribunals have condoned the delay even after the time period of elapse of ninety days, citing that the amended Regulation 12 (2) is directory. In the matter of Twenty-First Century Wire Roads Ltd. (2019) ibclaw.in 71 NCLT, an application was filed by one AMA Agencies Pvt. Ltd. before the Hon'ble Principal Bench of the NCLT, New Delhi for condonation of delay in filing their claim. The insolvency commencement date was 12th September 2018 and the claim was filed by AMA Agencies on 5th March, 2019. When the application was being heard, the CoC was still in the process of considering the resolution plans submitted. Therefore, the Hon'ble NCLT was pleased to condone the delay and direct the RP to consider the claim. A similar order was passed in another application for condonation filed in the same matter. The Principal Bench of the NCLT, New Delhi, went one step further in the matter of Edelweiss Asset Reconstruction Co. Pvt. Ltd. v. Adel Landmarks Ltd. and held "the rejection of claim on the ground of delay is not sustainable because the provisions has been held to be directory....We wish to make it clear that all the Resolution Professionals shall make a note of these repeated orders passed by NCLT clarifying that claim of an applicant, like the present one, could not be rejected on the ground of delay as the provision has been held to be directory."

Assistant Commissioner of Customs Vs. Mr. Mathur Sabhapathy Viswanathan, IRP of M/s. Leo Primecomp Pvt. Ltd. - NCLT Chennai Bench

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