

Limitation Act Judgments

<p>Noharlal Verma vs. District Cooperative Central Bank Limited, Jagdalpur, (SC), 2008</p>	<p>The Supreme Court observed that, if the statute stipulates a particular period of limitation, no concession or order would make an application barred by time to be within the limitation and the authority had no jurisdiction to consider such application on merits.</p>
<p>S.M. Ghogbhai vs. Schedulers Logistics India Pvt. Ltd. (23.05.2022 - NCLAT) :2022 OnLine NCLAT 216</p>	<p>Limitation period under IBC</p> <p>In this case, the Appeal was filed against the Order dated 16th November, 2021 passed by National Company Law Tribunal, Mumbai Bench, Court-III by which the Application C.P. No. 3857/I & B/2019 filed by the Appellant under Section 9 of the Insolvency and Bankruptcy Code, 2016 was rejected as barred by time. Tribunal dismissed the appeal stating –</p> <p>“We are satisfied that for the limitation for filing Section 9 application it is Article 137 of the Limitation Act, 1963 which is attracted. Under Article 137, time from which period begins to run is “when the right to apply accrues” the right to apply accrues when invoices issued by the Appellant to the Corporate Debtor were not paid. Invoices on the basis of which payment is claimed are more than three years earlier from the date of filing of Section 9 Application which is the basis for rejection of the Application of the Appellant by the Adjudicating Authority.”</p>
<p>Ramlal v. Rewa Coal Fields Ltd., AIR 1962 SC 361,</p>	<p>the Supreme Court held that once the period of limitation expires then the appellant has to explain the delay made thereafter for day by day and if he is unable to explain the delay even for a single day, it would be deemed that the party did not have sufficient cause for delay.</p> <p>It is the Court’s discretion to extend or not to extend the period of limitation even after the sufficient cause has been shown and other conditions are also specified. However, the Court should exercise its discretion judicially and not arbitrarily.</p>
<p>R B Ramlingam v. R B Bhvansewari (2009)</p>	<p>The test of “sufficient cause” is purely an individualistic test. It is not an objective test. Therefore, no two cases can be treated alike. The statute of limitation has left the concept of ‘sufficient cause’ delightfully undefined thereby leaving to the court a well-intended discretion to decide the individual cases whether circumstances exist establishing sufficient cause. There are no categories of sufficient cause. The categories of sufficient cause are never exhausted. Each case spells out a unique experience to be dealt with by the Court as such</p>
<p>B.K. Educational Services Private Limited v. Parag Gupta and Associates (2019)</p>	<p>In this case, the question raised by the Appellants was whether the Limitation Act, 1963 will apply to applications that are made under Section 7 and/or Section 9 of the Insolvency and Bankruptcy Code, 2016 on and from its commencement on 01.12.2016 till 06.06.2018. The Supreme Court held that Limitation Act, 1963 is applicable to proceedings under Sections 7 and 9 of the Insolvency and Bankruptcy Code, 2016 retrospectively since its inception.</p> <p>It was stated – “that, relying upon the Report of the Insolvency Law Committee of March, 2018, that the object of the Amendment Act which introduced Section 238A into the Code was to clarify the law and, thus, Section 238A must be held to be retrospective.</p> <p>...It is thus clear that since the Limitation Act is applicable to applications filed Under Sections 7 and 9 of the Code from the inception of the Code, Article 137 of the Limitation Act gets attracted. “The right to sue”, therefore, accrues when a default occurs. If the default has occurred over three years prior to the date of filing of the application, the application would be barred Under Article 137 of the</p>

	Limitation Act, save and except in those cases where, in the facts of the case, Section 5 of the Limitation Act may be applied to condone the delay in filing such application”
Udayan China Bhai v. R.C. Bali, AIR 1977 SC	The term “time requisite for obtaining a copy” means the time which is reasonably required for obtaining such a copy, On the explanation to Section 12, the Supreme Court in the case of Udayan China Bhai v. R.C. Bali, AIR 1977 SC 2319, held that by reading Section 12(2) with explanation it is not possible to accept the submission that in computing the time requisite for obtaining copy of a decree by an application made after preparation of the decree, the time that elapsed between the pronouncement of the judgement and the signing of the decree should be excluded
Laxmi Pat Surana vs. Union Bank of India and Ors. (26.03.2021 - SC) : AIR 2021 SC 1707	<p>This case has discussed, that a fresh period of limitation is required to be computed from the date of acknowledgment of debt by the principal borrower.</p> <p>The Supreme Court stated that- “Suffice it to conclude that there is no substance even in the second ground urged by the Appellant regarding the maintainability of the application filed by the Respondent-financial creditor Under Section 7 of the Code on the ground of being barred by limitation. Instead, we affirm the view taken by the NCLT and which commended to the NCLAT - that a fresh period of limitation is required to be computed from the date of acknowledgment of debt by the principal borrower from time to time and in particular the (corporate) guarantor/corporate debtor vide last communication dated 08.12.2018. Thus, the application Under Section 7 of the Code filed on 13.02.2019 is within limitation.”</p>
Asset Reconstruction Company (India) Limited vs. Bishal Jaiswal and Ors. (15.04.2021 - SC) : AIR 2021 SC 5249	<p>The supreme court addressed the issue as to whether an entry made in a balance sheet of a corporate debtor would amount to an acknowledgement of liability Under Section 18 of the Limitation Act. The Supreme Court held that several judgments of this Court have indicated that an entry made in the books of accounts, including the balance sheet, may amount to an acknowledgement of liability within the meaning of Section 18 of the Limitation Act but subject to further examination. It stated-</p> <p>that there is a compulsion in law to prepare a balance sheet but no compulsion to make any particular admission, is correct in law as it would depend on the facts of each case as to whether an entry made in a balance sheet qua any particular creditor is unequivocal or has been entered into with caveats, which then has to be examined on a case by case basis to establish whether an acknowledgement of liability has, in fact, been made, thereby extending limitation Under Section 18 of the Limitation Act</p>
Ravinder Kaur Grewal and Ors. vs. Manjit Kaur and Ors. (07.08.2019 - SC): 2019	<p>In this case, the question was whether a person claiming the title by virtue of adverse possession can maintain a suit Under Article 65 of Limitation Act, 1963 for declaration of title and for a permanent injunction seeking the protection of his possession thereby restraining the Defendant from interfering in the possession or for restoration of possession in case of illegal dispossession by a Defendant whose title has been extinguished by virtue of the Plaintiff remaining in the adverse possession or in case of dispossession by some other person? Court held that there is no bar under Limitation Act, 1963 to file a suit.</p> <p>It stated that - “In our opinion, consequence is that once the right, title or interest is acquired it can be used as a sword by the Plaintiff as well as a shield by the Defendant within ken of Article 65 of the Act and any person who has perfected title by way of adverse possession, can file a suit for restoration of possession in case of dispossession...</p> <p>We hold that plea of acquisition of title by adverse possession can be taken by Plaintiff Under Article 65 of the Limitation Act and there is no bar under the Limitation Act, 1963 to sue on aforesaid basis in case of infringement of any rights of a Plaintiff.</p>