

**HIGH COURT OF TRIPURA
AGARTALA**

**I.A. No.01/2025
in/and
Commercial Appeal No.04/2025**

Sri Debasish Das, son of Late Nirmal Bikash Das, resident of village-Joynagar, Middle Road, P.O.-Agartala, P.S.-West Agartala, Sub-division-Sadar, District:-West Tripura, Pin-799001.

..... Appellant/Applicant(s).

V E R S U S

1. The State of Tripura, represented by the Secretary, Public Works Department (R&B), Government of Tripura, having his office at Secretariat Building, P.O.-Kunjaban, P.S.-New Capital Complex. District-West Tripura, PIN-799006.

2. The Secretary, Public Works Department (R&B), Government of Tripura, having his office at Secretariat Building, P.O.-Kunjaban, P.S.-New Capital Complex, District-West Tripura, PIN-799006.

3. The Branch Manager, UCO Bank, Udaipur Branch, Udaipur, District-Gomati Tripura.

4. The Executive Engineer, PWD (NH) Division, Kumarghat, Unakoti.

.....Respondent(s).

For Appellant/Applicant(s) : Mr. Somik Deb, Sr. Advocate,
Mr. Haradhan Sarkar, Advocate,
Mr. Pannalal Debbarma, Advocate.

For Respondent(s) : Mr. Mangal Debbarma, Addl. G.A.

**HON'BLE THE CHIEF JUSTICE MR. M.S. RAMACHANDRA RAO
HON'BLE MR. JUSTICE S. DATTA PURKAYASTHA**

CAV reserved on : **04.09.2025.**

Judgment delivered on : **18.09.2025.**

Whether fit for reporting : **YES.**

JUDGMENT & ORDER

(M.S. Ramachandra Rao, C.J.)

Heard Mr. Somik Deb, learned Senior Counsel assisted by Mr. Haradhan Sarkar, Counsel appearing for the appellant/applicant as well as Mr.

Mangal Debbarma, Addl. Government Advocate appearing for the respondents-State.

2. This application has been filed by the applicant under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 154 days in filing the connected Commercial Appeal challenging the judgment and decree dt. 15.01.2025 and 20.01.2025 in case No. Commercial Suit 01 of 2021 *and* a subsequent order dt. 31.05.2025 in Civil Misc. 01 of 2025 passed by the District Judge, Gomati District, Udaipur.

3. It is stated in the application filed seeking condonation of delay by the applicant that after the judgment was pronounced on 15.01.2025 and decree was drafted on 20.01.2025, an application Civil Misc. 01 of 2025 under Section 152 of the CPC was filed by the applicant for correction of certain errors relating to mention of certain figures in the judgment dt. 15.01.2025 and the same came to be rejected on 31.05.2025.

4. It is stated that thereafter a decision was taken to file an appeal before this Court but the Senior Advocate engaged by the applicant was out of station for other engagement and also on account of treatment of his wife. After returning, the said counsel prepared the memo of appeal and it was made ready and filed on 27.08.2025. It is stated that the delay is unintentional and beyond the control of the applicant and he was prevented from filing the appeal within time for the aforesaid reasons and, therefore, it requires to be condoned.

5. We may point out that against the judgment in the Commercial Suit No.01 of 2021 pronounced on 15.01.2025 and the decree dt. 20.01.2025 passed therein, no doubt, an appeal under Section 13(1-A) of the Commercial

Courts Act, 2015 (for short the Act) lies to the High Court within 60 days from the date of the judgment or order. So the said appeal is required to be filed within 60 days as mentioned in the said provision.

6. We may point out that the Supreme Court in ***Government of Maharashtra (Water Resources Department) Represented by Executive Engineer v. Borse Brothers Engineers and Contractors Private Limited***¹ had held at para-58 as under:

"58. Given the object sought to be achieved under both the Arbitration Act and the Commercial Courts Act, that is, the speedy resolution of disputes, the expression "sufficient cause" is not elastic enough to cover long delays beyond the period provided by the appeal provision itself. Besides, the expression "sufficient cause" is not itself a loose panacea for the ill of pressing negligent and stale claims."

7. Thus, since the time for preferring the appeal is fixed at 60 days by Section 13(1-A) of the Act, and only further period of 60 days beyond the initial period of 60 days is permitted to be condoned, long delays beyond the said period 120 days, normally cannot be condoned. This is because the object of the Act is the speedy resolution of disputes and negligent and stale claims are not to be entertained beyond the period fixed in the Act and the said judgment.

8. Though in para-63 of the above judgment in ***Government of Maharashtra (Water Resources Department) Represented by Executive Engineer (1 supra)*** it is stated that a short delay beyond the period of 60 days, can in the discretion of the Court, be condoned, a delay, as in the instant case

¹ (2021) 6 SCC 460

of 154 days cannot be condoned by exercising power under Section 5 of the Limitation Act, 1963 having regard to the scheme of the Act.

9. The accompanying Commercial Appeal filed by applicant on 25.8.2025 with delay of 154 days has thus been filed far beyond the period of 120 days permitted under Section 13(1-A) of the Act, and is barred by limitation.

10. The reason assigned about the non-availability of the Counsel for the Applicant for the reasons mentioned in this application cannot be accepted as it was the duty of the applicant to find some other counsel to prepare and file the Appeal within the time permitted by law or condonable by law, if the counsel chosen by him was unavailable for any reason. Time is of essence because the policy of law is to ensure speedy adjudication of commercial disputes.

11. For correction of certain alleged errors in the judgment passed by the Commercial Court, the applicant filed Civil Misc. No.01 of 2025 under Section 152 of CPC and the same was rejected on 31.05.2025.

12. But the same has to be separately challenged by filing another appeal (if permitted by law) or by way of a revision under Article 227 of the Constitution of India before this Court.

13. A single appeal under Section 13(1-A) of the Act cannot be filed against the judgment in the Commercial Suit *and* also against the order passed by the Commercial Court in the Section 152 CPC application.

14. The period during which the said application under Section 152 CPC was pending also cannot be taken advantage of by the applicant, for filing the appeal under Section 13(1-A) of the Act against the original

judgment dt. 15.01.2025 and decree dt. 20.01.2025, because once the limitation of 60 days to file the Appeal starts to run from the date of the judgment in the Commercial Suit from 15.1.2025/20.1.2025, it continues to run and does not stop merely because an application under Section 152 CPC has been filed by the applicant.

15. We therefore hold that the delay of 154 days in the instant case is beyond the condonable period of delay prescribed in the above judgment by the Supreme Court, and therefore it is not liable to be condoned.

16. Therefore, I.A. No.01 of 2025 is dismissed. Consequently, the appeal [Commercial Appeal No.04 of 2025] is also dismissed.

Pending application(s), if any, also stands disposed of.

(S. DATTA PURKAYASTHA, J) (M.S. RAMACHANDRA RAO, CJ)

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