



IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 8TH DAY OF APRIL, 2026

PRESENT

THE HON'BLE MR. VIBHU BAKHRU, CHIEF JUSTICE

AND

THE HON'BLE MR. JUSTICE C.M. POONACHA

COMMERCIAL APPEAL NO. 270 OF 2025

BETWEEN:

EXECLUS FOOD BEV PRIVATE LIMITED
A COMPANY REGISTERED
UNDER THE COMPANIES ACT, 1956,
HAVING ITS REGISTERED
OFFICE AT A 401, 4TH FLOOR.
A WING, ROYAL GARDEN,
NEAR ATRIA MALL,
DR. A. B. ROAD WORLI,
MUMBAI - 400018
REPRESENTED BY ITS MANAGING DIRECTOR
TUSHAR DHANRAJ PAREKH

...APPELLANT

(BY SRI. GANESH KUMAR R, ADVOCATE)

AND:

GRIFFITH FOODS PRIVATE LIMITED
A COMPANY REGISTERED
UNDER THE COMPANIES ACT 1956
HAVING ITS OFFICE AT THE GRIFFITH HOUSE,
SITE NO 3 AND 4, KHB COLONY,
AIRPORT ROAD, YELAHANKA.
BENGALURU 560064

Digitally
signed by
NIRMALA
DEVI

Location:
HIGH
COURT OF
KARNATAKA



REPRESENTED BY ITS MANAGING DIRECTOR /
AUTHORIZED REPRESENTATIVE

...RESPONDENT

THIS COMAP IS FILED UNDER SECTION 13(1-A) OF COMMERCIAL COURTS ACT, 2015 R/W SECTION 96(1) OF THE CODE OF CIVIL PROCEDURE, 1908 PRAYING TO SET ASIDE THE JUDGMENT AND DECREE DATED 16.10.2024, PASSED BY THE HON'BLE LXXXVII ADDITIONAL CITY CIVIL AND SESSIONS JUDGE, BENGALURU (CCH-88) IN COM.OS.629/2022.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY, JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MR. VIBHU BAKHRU ,CHIEF JUSTICE
and
HON'BLE MR. JUSTICE C.M. POONACHA

ORAL JUDGMENT

(PER: HON'BLE MR. VIBHU BAKHRU,CHIEF JUSTICE)

1. The appellant has filed the present appeal under Section 13(1A) of the Commercial Courts Act, 2015, impugning the judgment and decree dated 16.10.2024 [**impugned judgment**] passed by the LXXXVII Additional City Civil and Sessions Judge, Bengaluru (CCH-38) [**Commercial Court**] in Com. O.S.No.629/2022. In terms of the impugned judgment, the suit preferred by the respondent (plaintiff) for recovery of ₹8,48,400/-



along with pre-suit interest of ₹3,90,932/- and future interest at 18% per annum, is decreed.

2. The plaintiff had supplied products (food seasoning) to the defendant against two invoices. Admittedly, the consignments were received and were duly acknowledged by the appellant. However, the appellant had not paid the amount invoiced. The appellant raised certain issues regarding the product's quality after a lapse of three months and also raised Debit Notes.

3. The defendant claims that it had received complaints from its customers regarding the product supplied, which was found to be tasteless. It was also found that the products supplied had not been stored at the requisite temperature and humidity.

4. The plaintiff disputed that the products supplied were of sub-standard quality. The plaintiff also examined an expert witness, PW.3, in support of its claim.

5. The learned Commercial Court did not accept the appellant's defence and accordingly decreed the suit.



6. The appellant has filed the present appeal after an inordinate delay of 139 days. It has also filed the present application, IA.No.1/2025, seeking condonation of the said delay. The only explanation furnished by the appellant reads as under:

"6. I state that I was unwell in the month of October 2024 till December and that Doctor had advised me to take bed rest during this period. Further, as I am the managing director of the company I need to attend to urgent issues in the company post my recover. I had to travel out for business meetings and other business related activities.

7. I state that thereafter I contacted my advocate in the month of April in order to file the present appeal. Thereafter I needed to brief my advocate and also provide all necessary papers to enable my advocate to file the present appeal."

7. We are unable to accept that the appellant was prevented by sufficient cause from filing the present appeal within the stipulated time.

8. The appellant claims that from October to December, he was advised bed rest. However, there is no material to support the same. The appellant also claims that he had to attend to the company's urgent business after his recovery and also had to travel out. However, there is no material to establish that as well.



9. It is also relevant to note that the appellant is an incorporated company and therefore, the Board of Directors of the company could have authorised any person to file the present appeal, and it is not necessary that the appeal had to be filed by the Managing Director of the appellant only. Thus, even if it is assumed that the Managing Director of the appellant was indisposed, the same did not prevent the appellant from filing the present appeal during the stipulated period.

10. The impugned judgment was passed on 16.10.2024, and the present appeal was filed on 03.05.2025. No credible reason has been furnished for the delay subsequent to December, 2024. Plainly, the explanation that the Managing Director had to attend to the urgent affairs of the company and had to travel for business cannot be accepted as a ground for condoning the delay.

11. The entire purpose and object of providing strict timelines in matters relating to commercial disputes is to ensure their expeditious disposal. Condoning inordinate delays without any adequate explanation would run contrary to the legislative intent.



12. We consider it apposite to refer to the following observations of the Supreme Court in ***Government of Maharashtra v. M/s Borse Brothers Engineers & Contractors Pvt. Ltd.***,¹

55. Reading the Arbitration Act and the Commercial Courts Act as a whole, it is clear that when Section 37 of the Arbitration Act is read with either Article 116 or 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, the object and context provided by the aforesaid statutes, read as a whole, is the speedy disposal of appeals filed under Section 37 of the Arbitration Act. To read Section 5 of the Limitation Act consistently with the aforesaid object, it is necessary to discover as to what the expression “sufficient cause” means in the context of condoning delay in filing appeals under Section 37 of the Arbitration Act.

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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....

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63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under Section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1-A) of the Commercial

¹ (2021) 6 SCC 460



Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches.

13. In view of the above, the application seeking condonation of the delay is dismissed. Consequently, the appeal is dismissed as well.

14. At this stage, the learned counsel appearing for the appellant requests that the court fee be refunded. The Registry is directed to do so in accordance with the Rules.

SD/-
(VIBHU BAKHRU)
CHIEF JUSTICE

SD/-
(C.M. POONACHA)
JUDGE

ND
List No.: 1 SI No.: 11