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C.M.P.(MD)No.4984 of 2025
in C.M.A(MD)No.SR 24025 of 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

Reserved on : 23.07.2026

Delivered on : 07.08.2026

CORAM

THE HON'BLE MR.JUSTICE K.MURALI SHANKAR

C.M.P.(MD)No.4984 of 2025
in
C.M.A(MD)No.SR 24025 of 2025

Chiranjeevi Match Industries,
rep.through its Partner,
R.Thilagavathi,
482/2, Senthamangalam Road,
Sankarankoil.

: Petitioner

Vs

Employee's State Insurance Corporation,
Rep.by its Assistant Director,
Sub-Regional office,
Panchadeep Bhavan, Salai Road,
Vannarapettai, Tirunelveli.

: Respondents

PRAYER in C.M.P(MD)No.4984 of 2025: This Civil Miscellaneous Petition filed under Section 5 of Limitation Act, to condone the delay of 561 days in filing the appeal against the order made in E.S.I.O.P.No.74 of 2021, dated 30.06.2023 on the file of the Employees State Insurance Court (Labour Court), Tirunelveli.

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PRAYER in C.M.A(MD)No.SR 24025 of 2025 : Civil Miscellaneous Appeal filed under Section 82(2) of Employees State Insurance Act, against the order made in E.S.I.O.P.No.74 of 2021, dated 30.06.2023 on the file of the Employees State Insurance Court (Labour Court), Tirunelveli.

For Petitioner : Mr.M.N.Ramkumar,

For Respondent : Mr.C.Karthik.

ORDER

The above application has been filed seeking orders to condone the delay of 561 days in filing the appeal against the order made in E.S.I.O.P. No.74 of 2021, dated 30.06.2023 on the file of the Employees State Insurance Court (Labour Court), Tirunelveli.

2. The petitioner filed a petition under Section 75(1)(g) of Employees State Insurance Act, challenging the order passed under Section 45-A of the said Act, dated 19.09.2019, passed by the respondent in E.S.I.O.P.No.74 of 2021.



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3.The respondent/Corporation filed the counter statement and contested the petition. After full fledged enquiry, the Labour Court, considering the pleadings and evidence both oral and documentary and on hearing the arguments of both the sides, passed the impugned order, dated 30.06.2023, dismissing the petition and thereby, confirming the order passed by the respondent under Section 45-A of the Employees State Insurance Act, claiming contribution to the tune of Rs.2,22,008/-. Aggrieved by the impugned order, the petitioner has filed the present Civil Miscellaneous Appeal along with the above application to condone the delay of 561 days in preferring the appeal.

4. The case of the petitioner now canvassed in the delay condonation petition is that their counsel had received the certified copy of the impugned order, which was duly informed to him over the phone, but he could not meet his counsel in time due to health condition and also financial constraints; that he met his counsel in the third week of November 2024, after his health condition was improved; that he has been advised to file an appeal with an application to condone the delay and accordingly, he filed the above petition;



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that the delay occurred is neither willful nor wanton and that the petitioner's society will be deeply prejudiced, if the application is not allowed.

5. The respondent/ESI Corporation filed a counter affidavit raising objections and stated that the petitioner has not given any proper explanation for the delay; that the petitioner has also not stated on what date the certified copy of the order has been received and on what date the same has been communicated or received etc., and on what date the petitioner met their counsel; that the petitioner is a partnership firm and there are partners other than the present petitioner and as such, any one of the other partners could have taken steps to file the appeal; that the petitioner has nor offered any proper explanation to condone the delay of 561 days in filing the appeal; that though they have to explain each and every day delay, they have not offered any explanation or reasons and that therefore, the petition is liable to be dismissed.

6. Before proceeding further, it is necessary to refer to the decision of the Hon'ble Supreme Court in ***Shankargir Vs. State of Madhya Pradesh***, wherein the Hon'ble Apex Court expressed its dismay over the manner in



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which the High Court had condoned a delay of 1612 days merely on the asking of the State Government. The Hon'ble Supreme Court reiterated that the law relating to limitation and condonation of delay is well settled and that the existence of "sufficient cause" must be properly established before the delay can be condoned.

7. In the case of ***Thirunagalingam Vs. Lingeswaran and another*** reported in ***2025 Live Law SC 560***, the Hon'ble Apex Court reiterated the legal position that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the bona fides of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay and the relevant portion is extracted hereunder :

“Further, this Court has repeatedly emphasised in several cases that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party. In the present



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case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet.”

8. It is also necessary to refer the decision of Hon'ble Supreme Court in ***State of Madhya Pradesh Vs. Ramkumar Choudhary*** reported in **2024 SCC Online SC 3612**, wherein its earlier decision in ***Union of India Vs. Jahangir Byramiji Jeejeebhoy(D) through his legal heir***, reported in **2024 SCC Online SC 489**, was referred and the relevant passages are extracted hereunder :

5.1. In Union of India v. Jahangir Byramji Jeejeebhoy (D) through his legal heir, wherein, one of us (J.B.Pardiwala, J) was a member, after referring to various decisions on the issue, it was in unequivocal terms observed by this Court that delay should not be excused as a matter of generosity and rendering substantial justice is not to cause prejudice to the opposite party. The relevant passage of the same is profitably extracted below:

“24. In the aforesaid circumstances, we made it very clear that we are not going to look into the merits of the matter as



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long as we are not convinced that sufficient cause has been made out for condonation of such a long and inordinate delay.

25. It hardly matters whether a litigant is a private party or a State or Union of India when it comes to condoning the gross delay of more than 12 years. If the litigant chooses to approach the court long after the lapse of the time prescribed under the relevant provisions of the law, then he cannot turn around and say that no prejudice would be caused to either side by the delay being condoned. This litigation between the parties started sometime in 1981. We are in 2024. Almost 43 years have elapsed. However, till date the respondent has not been able to reap the fruits of his decree. It would be a mockery of justice if we condone the delay of 12 years and 158 days and once again ask the respondent to undergo the rigmarole of the legal proceedings.

26. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has



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prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.

27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the 'Sword of Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.



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xxx xxx xxx

34. *In view of the aforesaid, we have reached to the conclusion that the High Court committed no error much less any error of law in passing the impugned order. Even otherwise, the High Court was exercising its supervisory jurisdiction under Article 227 of the Constitution of India.*

35. *In a plethora of decisions of this Court, it has been said that delay should not be excused as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. The appellants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in this case.*

36. *For all the foregoing reasons, this appeal fails and is hereby dismissed. There shall be no order as to costs.”*

After referring to the above said decision, the Hon'ble Apex Court observed,

'Applying the above legal proposition to the facts of the present case, we are of the opinion that the High Court correctly



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refused to condone the delay and dismissed the appeal by observing that such inordinate delay was not explained satisfactorily, no sufficient cause was shown for the same, and no plausible reason was put forth by the State. Therefore, we are inclined to reject this petition at the threshold.'

9. Bearing the above legal position in mind, let us now consider the case on hand. As already pointed out, the reason assigned for the delay is that, even after coming to know of the impugned order, the petitioner could not meet its counsel in time on account of the health condition of one of its partners and also due to financial constraints. Admittedly, one Ramaraj, one of the partners of the petitioner firm, namely, Chiranjeevi Match Industries, has filed the affidavit in support of the petition seeking condonation of delay.

10. As rightly pointed out by the learned counsel appearing for the respondent, the petitioner is a partnership firm and, apart from the deponent of the affidavit, there are other partners. However, no reason or explanation has been offered as to what prevented the other partners from contacting their counsel and taking necessary steps for preferring the appeal within time.



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11. Moreover, the deponent has not stated as to when their counsel received the certified copy of the impugned order, when the impugned order was communicated to the petitioner firm and on what date he contacted or met their counsel for preferring the appeal. Though ill-health has been cited as one of the reasons for the delay, no particulars whatsoever have been furnished in that regard. Neither the nature of the illness nor the period of treatment has been disclosed. The affidavit also does not state when the deponent recovered from the alleged illness. No medical record has been produced to substantiate the plea of ill-health.

12. Moreover, though the petitioner has pleaded financial constraints as one of the reasons for the delay, no particulars whatsoever have been furnished in support of the said plea. At this juncture, it is necessary to refer to the decision of the Hon'ble Supreme Court in Ajay Dabra Vs. Pyare Ram and Others, reported in AIR 2023 SC 698, wherein the Hon'ble Supreme Court has held that insufficiency of funds, by itself, cannot constitute sufficient cause for condonation of delay. The Hon'ble Supreme Court further observed that it would be an entirely different matter if the appeal had been filed by invoking



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Section 149 of the Code of Civil Procedure and the defect had subsequently been cured by payment of the deficit Court fee. The relevant portion of the said judgment is extracted hereunder:

“ We do not have a case at hand where the appellant is not capable of purchasing the court fee. He did pay the court fee ultimately, though belatedly. But then, under the facts and circumstances of the case, the reasons assigned for the delay in filing the appeal cannot be a valid reason for condonation of the delay, since the appellant could have filed the appeal deficient in court fee under the provisions of law referred above. Therefore, we find that the High Court was right in dismissing Section 5 application of the appellant as insufficient funds could not have been a sufficient ground for condonation of delay, under the facts and circumstance of the case. It would have been entirely a different matter had the appellant filed an appeal in terms of Section 149_CPC and thereafter removed the defects by paying deficit court fees. This has evidently not been done.



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13. In the light of the above dictum, the plea of the petitioner that it was facing financial constraints and was unable to mobilise the necessary funds cannot, by itself, be accepted as sufficient cause for condoning the delay.

14. As per the settled legal position referred to above, while considering an application for condonation of delay, the Court cannot proceed on the merits of the main matter at the threshold. The merits may assume relevance only where the explanation offered for the delay and the objections raised by the opposite party are evenly balanced and stand on an equal footing. In the case on hand, as already pointed out, the reasons assigned by the petitioner, by no stretch of imagination, can be construed as constituting sufficient cause for condoning the inordinate delay of 561 days. More importantly, the explanation regarding ill-health has been offered only with respect to one of the partners and even the said plea has not been substantiated by any material. The petitioner has not offered any explanation as to what prevented the other partners from taking necessary steps to prefer the appeal within the prescribed period.



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15. Considering the above, this Court has no hesitation in holding that the petitioner has not shown any sufficient cause for the inordinate delay of 561 days in filing the appeal and as such, this Court concludes that the above petition is devoid of merits and is liable to be dismissed.

16. In the result, the Civil Miscellaneous Petition is dismissed. Consequently, the Civil Miscellaneous Appeal is rejected at the SR stage itself. No costs.

07.08.2026

NCC : Yes / No
Index : Yes / No
Internet : Yes / No
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To

1. The Employees State Insurance Court (Labour Court),
Tirunelveli.

2. The Record Keeper,
Vernacular Section,
Madurai Bench of Madras High Court,
Madurai.



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K.MURALI SHANKAR,J.

das

Pre-delivery order made in
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in
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Dated: 07.08.2026