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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

INTERIM APPLICATION NO.11894 OF 2025
IN
COMM FIRST APPEAL NO.19386 OF 2025

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Sizer Metals Pvt. Ltd.

...Appellants

Versus

Vir Electro Engineering Pvt. Ltd. & Ors.

...Respondents

Ms. Priti Shah for the Applicant / Appellant.

CORAM : R.I. CHAGLA AND
FARHAN P. DUBASH, JJ.

DATE : 10TH OCTOBER, 2025.

ORDER :

1. By this Interim Application, the Appellant / Applicant has sought condonation of delay of 82 days in filing the Commercial First Appeal. The judgment dated 17th January, 2025 from which the Commercial Appeal has been filed is an exparte judgment, where the Defendant had failed to make an appearance.

2. The cause for the delay has been mentioned in

paragraph 3 of the Interim Application. The Applicant has stated that though copy of the impugned judgment was available on 21st April, 2025, inadvertently the clerk of the earlier Advocate for the Applicant did not make application for certified copy of impugned judgment in time and there was delay in making application. There was a death in the family of the concerned lawyer on 9th February, 2025 whose legal opinion had been sought with regard to the filing of the Commercial First Appeal somewhere in the end of January, 2025. The concerned lawyer had given legal opinion in the first week of March, 2025. The Applicant had thereafter sought to file the present Commercial First Appeal and there was some delay in filing of the Commercial First Appeal.

3. We are satisfied that the cause shown in the aforementioned paragraphs in the Interim Application is sufficient for condonation of delay in filing of the Commercial First Appeal. The Defendants have from the inception not been interested in defending the Commercial Suit as is apparent from the fact that the impugned judgment of the City Civil Court at Mazgaon has been passed exparte.

4. In view thereof, we allow present Interim Application.

The delay of 82 days in filing of the Commercial First Appeal is condoned.

5. The Registry is directed to take on record the present Commercial First Appeal.

6. The Interim Application is accordingly disposed of.

7. It is made clear that in the event the Respondents do not make an appearance on the next date inspite of notice being served by the Advocates for the Appellants of this Order, the Commercial First Appeal shall be heard in their absence.

8. The Commercial First Appeal shall be placed for admission on 13th November, 2025.

[FARHAN P. DUBASH, J.]

[R.I. CHAGLA J.]