

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 38644 OF 2025
IN
CROSS OBJECTION NO. (L) 39921 OF 2025
IN
COMMERCIAL FIRST APPEAL NO. 21 OF 2025**

APM Terminals Private Limited ... Applicant

IN THE MATTER BETWEEN

Parasmal Danmal Jain ... Appellant

Vs.

APM Terminals Private Limited ... Respondent

Adv. Nakul Jain a/w Prachi Gharat, Adv. Apurva Mehta, Adv. Shrijit Khande
i/b ANB Legal for the Respondent in Comm. F. A. 21 of 2025

Adv. H. R. Shetty for Appellant.

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

DATE : 19th DECEMBER 2025

ORDER:

1. By this Interim Application, the Applicant has sought for condonation of delay of 61 days in filing of the Cross Objections and for taking the same on record.

2. The Applicant has stated that the Respondent in the present Appeal was served with the copy of Memorandum of Appeal filed by the Appellant on 15th September 2025 and the Cross Objections were filed on 2nd December 2025. Under Order XLI Rule 22 of the CPC, Cross Objections are to be filed within 30 days of service of Memorandum of Appeal. The cause shown for the delay is that, there was delay in preparing the Cross objections on account of intervening Diwali break and various levels of approvals from the management of the Applicant. It is further stated that the delay is not deliberate and/or intentional. Further, that necessary steps have been taken by the Applicant to file the Memorandum of Cross Objection as early as possible.

3. There is an Affidavit-in-Reply filed by the Respondent to the present Interim Application. It is stated that the Applicant has not made a *bona fide* application and the delay ought not to be condoned. The Respondent has stated that the Application is totally bogus and without any documentary evidence and the delay in filing the cross objection is totally deliberate and/or intentional. The Respondent has further stated that, steps to file the Cross Objection ought to have been taken within 30 days of service of Memorandum of Appeal filed by the Appellant's Advocate on 12th September 2025 (not 15th September 2025 as incorrectly mentioned in the

Application). It is further stated that the Diwali Vacation cannot be made an excuse for the delay in filing of the present Interim Application. Further, the requirement of approval from various levels of management of the Applicant does not and cannot arise in this case because the Applicant herein and their Advocates are well versed with the case at hand.

4. We have considered the submissions and the averments in the Interim Application as well as in the Affidavit-in-Reply. The Interim Application is filed for condonation of delay in filing of the Cross Objection to the Commercial First Appeal which has been filed by the Appellant/Respondent herein. Considering that both the Commercial First Appeal and the Cross Objection challenge the same order, we consider it appropriate to allow the present Interim Application. This given the fact that the Applicant would suffer grave prejudice by the dismissal of the Cross Objection on the ground of delay. However, we are not entirely satisfied with the cause shown in the present Interim Application for condonation of delay. There appears merit in the contention of the Respondent that the Diwali Break cannot be used as an excuse for not filing the Cross Objection promptly, particularly since the Diwali Break was after the expiry of 30 days of service of Memorandum of Appeal, which is the prescribed period for filing the Cross Objection under Order XLI rule 22 of the CPC. In that view of

the matter, we consider it appropriate to impose costs on the Applicant for condoning the delay.

5. Hence the following order is passed.

:: ORDER ::

- (i) The delay of 61 days in filing of the Cross Objection is condoned subject to payment of costs by the Applicant of a sum of Rs. 10,000/- payable to Tata Memorial Hospital and which shall be paid within a period of two weeks from today.
- (ii) The Registrar shall upon payment of costs take the Cross Objections of the Applicant on record.
- (iii) The Interim Application No. 38644 OF 2025 is accordingly disposed of.

6. Place the Commercial First Appeal and Cross Objection on 9th January 2026.

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PAWAR
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by JYOTI
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(FARHAN P. DUBASH, J.)

(R.I. CHAGLA J.)

Shubham G.
8. IA 38644-2025 dt. 19.12.2025