



2025:DHC:9174-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA(COMM) 230/2025**
M/S NBCC (INDIA) LTD.Appellant
Through: **Mr. Mohit Arora, Adv.**

versus

M/S RIC PROJECTS PVT. LTD.Respondent
Through: **Mr. Avinash Trivedi, Adv.**

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR
HON'BLE MR. JUSTICE OM PRAKASH SHUKLA
JUDGMENT(ORAL)
% **10.10.2025**

C. HARI SHANKAR, J.

RFA(COMM) 230/2025 & CM APPL. 24569/2025 (Delay)

1. As the present appeal has been filed under Section 13(1-A)¹ of the Commercial Courts Act, 2015² after a delay of 117 days and in view of the law laid down by Supreme Court in *Government of Maharashtra v Borse Brothers Engineers & Contractors Pvt Ltd*³, we have listed the matter to hear on the aspect of condonation of delay.

¹ (1-A) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 (5 of 1908) as amended by this Act and Section 37 of the Arbitration and Conciliation Act, 1996 (26 of 1996).

² "the Act", hereinafter

³ (2021) 6 SCC 460



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2. Admittedly, 117 days' delay has been occasioned in filing the present appeal beyond the period of 60 days available in Section 13(1-A) of the Act.

3. Mr. Avinash Trivedi, learned Counsel for the respondent points out that, in fact, an application for execution of the judgment and decree under challenge had been filed by the respondent in February 2025 and was withdrawn on 11 March 2025 after the decree was satisfied. It was only thereafter, in April 2025, that the affidavit accompanying the present appeal was even affirmed.

4. That apart, there is no ground whatsoever, worth the name, in the application for condonation of delay, as would justify condoning the delay. The only submission in the application is that it was obligatory for the appellant to seek legal opinion before taking any decision in challenging the judgment and that it took time to trace the record and obtain the legal opinion. No particulars or details whatsoever are forthcoming.

5. We have, in our recent decision in *Casablanca Apparels Pvt Ltd v Polo/ Lauren Company L.P.*⁴, commented on the approach to be adopted while dealing with the application for condonation of delay in commercial matters. We have relied on the judgment in *Borse Brothers* and have thereafter observed thus:

“14. This court finds that the approach on the part of the appellant to file the present appeal has been very negligent and



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lackadaisical. Even presuming that the reasons mentioned for condoning the delay are to be true, this court does not find the same to be bona fide or sufficient enough to be included in the expression of “sufficient cause” under section 5 of Limitation Act, 1963. The appellant has failed to show any specific or bona fide circumstances that prevented it from timely steps to be taken. The inaction appears to stem from internal disorganization and lack of diligence, rather than any bona fide difficulty. Applying the principles and the above discussed law as laid down by the Supreme Court, this Court finds that the delay in filing the appeal is not supported by any credible grounds or explanation to include it in the expression of “sufficient cause”.

15. The Supreme Court has time and again reiterated that the expression “sufficient cause” as mentioned under Section 5 of the Limitation Act, 1963 is not elastic enough to cover long delays and must be interpreted strictly in the context of Commercial Courts Act, 2015 and that condonation of delay in such appeal has to be granted by way of exception and not as a matter of rule, and that too only when the party acted in a bona fide manner and not negligently. In the present case, the submissions advanced by the appellant, when tested on the anvil of this legal threshold, fall short of the standard required for invoking this discretionary relief.”

6. The delay in *Casablanca Apparels* was only of 73 days. In the present case, the delay is of 117 days, and as we have noted, there is no explanation for the said delay.

7. Accordingly, we find ourselves unable to condone the delay in filing the appeal. CM APPL. 24569/2025 is, accordingly, dismissed. RFA (COMM) 230/2025 is also therefore dismissed on the ground of delay without going into the merits.

C. HARI SHANKAR, J.

OM PRAKASH SHUKLA, J.

OCTOBER 10, 2025/gunn

Signature Not Verified

Signed By: GUNN RFA(COMM) 230/2025
Signing Date: 17.10.2025
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