



2025:DHC:7034-DB



\$~

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Judgment reserved on: 07.08.2025

Judgment delivered on: 20.08.2025

+

FAO (COMM) 206/2025 & CM APPL. 47787/2025 (Delay of 87 days in filing the appeal)

DILSHAD KHAN

.....Appellant

Through: Mr. Sanjay Bansal, Advocate.

versus

GOVT OF NCT OF DELHI

.....Respondent

Through: Mr. Tushar Sannu, Counsel for
GNCTD with Ms. Shaoni Das,
Advocate.

CORAM:

HON'BLE MR. JUSTICE ANIL KSHETARPAL

**HON'BLE MR. JUSTICE HARISH VAIDYANATHAN
SHANKAR**

JUDGEMENT

HARISH VAIDYANATHAN SHANKAR J.

1. The present appeal has been filed under Section 37 of the **Arbitration and Conciliation Act, 1996**¹ read with Section 13(1A) of the **Commercial Courts Act, 2015**², *inter alia*, assailing the **Order dated 04.02.2025**³ passed by the learned **District Judge (Commercial Court), North-East District, Karkardooma Courts,**

¹ A&C Act.

² CC Act.

³ Impugned Order.



2025:DHC:7034-DB



Delhi⁴, in OMP (COMM) 2/2023. By the Impugned Order, the Petition under section 34 of the A&C Act filed by the Respondent herein was allowed and the Arbitral Award dated 02.03.2023, passed in case No. ARB/RM/15 by the learned sole Arbitrator was set aside.

2. At the very outset, the learned counsel for the Appellant was posed with the question as to whether the present appeal is maintainable, considering that it appears to have been filed beyond the prescribed period of limitation.

3. The aforesaid query arose on the basis of the averments contained in the application, accompanied with the appeal, seeking condonation of delay, which reads as follows:

“3. The appellant submit that the Impugned order was passed on 04.02.2025 and 60 days expired on 05.04.2025. Thereafter the appellant had applied for certified copy of order on 06.05.2025 in which the date of delivery was given as 14.05.2025 when again new date of delivery was given as 24.05.2025. However, the applicant had received the copy on 23.05.2025, hence date from 06.05.2025 to 23.05.2025 i.e., 18 days was taken by registry to provide certified copy and thereafter the vacation starts from 01.06.2025 to 30 June 2025 i.e. for 30 days. The total time taken for filing the present appeal was 147 days, out of which 60 days granted by Act 1996 for filing appeal, 18 days taken by Registry to supply certified copy and 30 days summer vacations period is to be deducted from the total time of 147 days i.e. $147 - (60 + 18 + 30) = 39$ days, i.e. there is delay in filing the present appeal after three months was only 9 days beyond three months in terms of period provided under Section 34 of Act and the same can be condoned under law.

4. It is further submitted that three months expires on 04.05.2025 and thereafter the appeal also can be filed within extended period of 30 days and the same shall expire on 03.06.2025, however, the summer vacation starts from 01.06.2025. the Period of 18 days also to be deducted from the period of 27 days i.e. after 04.05.2025 till 31.05.2025 and hence the total delay beyond three months was only 9 days and the same can be condoned in terms of Law.

⁴ District Judge.



2025:DHC:7034-DB



5. It is further submitted that the delay was caused due to marriage of son of appellant on 15.04.2025 and therefore the appellant could not be able to file the present appeal in time.

6. It is only after the marriage of son of appellant, the appellant son had applied for copy of order dated 04.02.2025 from the Registry at Karkardooma courts and the same was received by him on 23.05.2025, though the copy was ready on 19.05.2025 as per date given on certified copy. However, the date of delivery on the receipt was extended from 14.05.2025 to 24.05.2025 and it is therefore only the certified copy was received on 23.05.2025

7. The delay is due to marriage of son of appellant and the same is within the extended period of 30 days beyond three months as per total time 120 days as provided by Hon'ble Supreme Court of India.

8. That delay of total 87 days, however after deducting the period of 18 days towards registry and 30 days of summer vacation, there was a delay of 09 days beyond the period of 90 days but well within period of 120 days in filing the present accompanying appeal, which was neither intentional nor deliberate but due to sufficient reasons of marriage of son of appellant as stated above. No prejudice shall be caused to the respondent if the delay in filing the appeal is condoned, however, the appellant would be prejudiced if the delay is not condoned.”

4. On a conjoint reading of the provisions of the CC Act and the **Limitation Act, 1963**⁵, as interpreted by a three-Judge Bench of the Hon'ble Supreme Court in **Government of Maharashtra (Water Resources Department) v. Borse Brothers Engineers & Contractors Pvt. Ltd.**⁶, and contrasted with the earlier two-Judge decision in **N.V. International v. State of Assam**⁷, the settled legal position is that the prescribed limitation for filing an appeal under Section 37 of the A&C Act in respect of commercial disputes of “Specified Value” is sixty days, in terms of Section 13(1A) of the CC Act. In the present case, it is an undisputed fact that the “Specified Value” exceeded the

⁵ Limitation Act.

⁶ (2021) 6 SCC 460.



2025:DHC:7034-DB



prescribed threshold. Section 2(1)(i) of the CC Act defines “*Specified Value*” as follows:

“(i) “**Specified Value**”, in relation to a commercial dispute, shall mean the value of the subject matter in respect of a suit as determined in accordance with section 12 which shall not be less than three lakh rupees or such higher value, as may be notified by the Central Government.”

5. In ***N.V. International*** (*supra*), the Hon’ble Supreme Court had proceeded on the premise that, in the absence of a specific provision prescribing limitation for appeals under Section 37, the limitation applicable to Section 34(3) proceedings would also govern such appeals. On that reasoning, it was held that delay in filing an appeal under Section 37 could not be condoned beyond thirty days. However, in ***Borse Brothers Engineers*** (*supra*), the Hon’ble Supreme Court undertook a detailed examination of the statutory framework under the A&C Act, the CC Act and the Limitation Act, and concluded that the reasoning in ***N.V. International*** (*supra*) was rendered *per incuriam* as it failed to consider the interplay of these enactments. The relevant paragraphs of ***Borse Brothers Engineers*** (*supra*) are produced herein below:

“23. Section 37 of the Arbitration Act, when read with Section 43 thereof, makes it clear that the provisions of the Limitation Act will apply to appeals that are filed under Section 37. This takes us to Articles 116 and 117 of the Limitation Act, which provide for a limitation period of 90 days and 30 days, depending upon whether the appeal is from any other court to a High Court or an intra-High Court appeal. There can be no doubt whatsoever that Section 5 of the Limitation Act will apply to the aforesaid appeals, both by virtue of Section 43 of the Arbitration Act and by virtue of Section 29(2) of the Limitation Act.

⁷ (2020) 2 SCC 109.



25. When the Commercial Courts Act is applied to the aforesaid appeals, given the definition of “specified value” and the provisions contained in Sections 10 and 13 thereof, it is clear that it is only when the specified value is for a sum less than three lakh rupees that the appellate provision contained in Section 37 of the Arbitration Act will be governed, for the purposes of limitation, by Articles 116 and 117 of the Limitation Act. Shri Deshmukh's argument that depending upon which court decides a matter, a limitation period of either 30 or 90 days is provided, which leads to arbitrary results, and that, therefore, the uniform period provided by Article 137 of the Limitation Act should govern appeals as well, is rejected.....

27. Even in the rare situation in which an appeal under Section 37 of the Arbitration Act would be of a specified value less than three lakh rupees, resulting in Article 116 or 117 of the Limitation Act applying, the main object of the Arbitration Act requiring speedy resolution of disputes would be the most important principle to be applied when applications under Section 5 of the Limitation Act are filed to condone delay beyond 90 days and/or 30 days depending upon whether Article 116(a) or 116(b) or 117 applies. As a matter of fact, given the timelines contained in Sections 8, 9(2), 11(4), 11(13), 13(2)-(5), 29-A, 29-B, 33(3)-(5) and 34(3) of the Arbitration Act, and the observations made in some of this Court's judgments, the object of speedy resolution of disputes would govern appeals covered by Articles 116 and 117 of the Limitation Act.

32. Thus, from the scheme of the Arbitration Act as well as the aforesaid judgments, condonation of delay under Section 5 of the Limitation Act has to be seen in the context of the object of speedy resolution of disputes.

33. The bulk of appeals, however, to the appellate court under Section 37 of the Arbitration Act, are governed by Section 13 of the Commercial Courts Act. Sub-section (1-A) of Section 13 of the Commercial Courts Act provides the forum for appeals as well as the limitation period to be followed, Section 13 of the Commercial Courts Act being a special law as compared with the Limitation Act which is a general law, which follows from a reading of Section 29(2) of the Limitation Act. Section 13(1-A) of the Commercial Courts Act lays down a period of limitation of 60 days uniformly for all appeals that are preferred under Section 37 of the Arbitration Act. [As held in **BGS SGS SOMA JV v. NHPC Ltd., (2020) 4 SCC 234**, whereas Section 37 of the Arbitration Act provides the substantive right to appeal, Section



2025:DHC:7034-DB



13 of the Commercial Courts Act provides the forum and procedure governing the appeal (see para 13).]

34. The vexed question which faces us is whether, first and foremost, the application of Section 5 of the Limitation Act is excluded by the scheme of the Commercial Courts Act, as has been argued by Dr George. The first important thing to note is that Section 13(1-A) of the Commercial Courts Act does not contain any provision akin to Section 34(3) of the Arbitration Act. Section 13(1-A) of the Commercial Courts Act only provides for a limitation period of 60 days from the date of the judgment or order appealed against, without further going into whether delay beyond this period can or cannot be condoned.

35. It may also be pointed out that though the object of expeditious disposal of appeals is laid down in Section 14 of the Commercial Courts Act, the language of Section 14 makes it clear that the period of six months spoken of is directory and not mandatory. By way of contrast, Section 16 of the Commercial Courts Act read with the Schedule thereof and the amendment made to Order 8 Rule 1 CPC, would make it clear that the defendant in a suit is given 30 days to file a written statement, which period cannot be extended beyond 120 days from the date of service of the summons; and on expiry of the said period, the defendant forfeits the right to file the written statement and the court cannot allow the written statement to be taken on record. This provision was enacted as a result of the judgment of this Court in Salem Advocate Bar Assn. (2) v. Union of India, (2005) 6 SCC 344.

39. Unlike the scheme of the Central Excise Act relied upon in CCE v. Hongo (India) (P) Ltd., (2009) 5 SCC 791, there are no other provisions in the Commercial Courts Act which provide for a period of limitation coupled with a condonation of delay provision which is either open-ended or capped. Also, the period of 180 days provided was one indicia which led the Court to exclude the application of Section 5 of the Limitation Act, as it was double and triple the period provided for appeals under the other provisions of the same Act. Section 13(1-A) of the Commercial Courts Act, by way of contrast, applies an intermediate period of 60 days for filing an appeal, that is, a period that is halfway between 30 days and 90 days provided by Articles 116 and 117 of the Limitation Act.

43. The next important argument that needs to be addressed is as to whether the hard-and-fast rule applied by this Court in N.V. International v. State of Assam, (2020) 2 SCC 109 is correct in law. Firstly, as has correctly been argued by Shri



2025:DHC:7034-DB



Shroti, N.V. International v. State of Assam, (2020) 2 SCC 109, does not notice the provisions of the Commercial Courts Act at all and can be said to be per incuriam on this count. Secondly, it is also correct to note that the period of 90 days plus 30 days and not thereafter mentioned in Section 34(3) of the Arbitration Act cannot now apply, the limitation period for filing of appeals under the Commercial Courts Act being 60 days and not 90 days. Thirdly, the argument that absent a provision curtailing the condonation of delay beyond the period provided in Section 13 of the Commercial Courts Act would also make it clear that any such bodily lifting of the last part of Section 34(3) into Section 37 of the Arbitration Act would also be unwarranted. We cannot accept Shri Navare's argument that this is a mere casus omissus which can be filled in by the Court.

52. For all these reasons, given the illuminating arguments made in these appeals, we are of the view that N.V. International v. State of Assam, (2020) 2 SCC 109 has been wrongly decided and is therefore overruled.

53. However, the matter does not end here. The question still arises as to the application of Section 5 of the Limitation Act to appeals which are governed by a uniform 60-day period of limitation. At one extreme, we have the judgment in N.V. International v. State of Assam, (2020) 2 SCC 109 which does not allow condonation of delay beyond 30 days, and at the other extreme, we have an open-ended provision in which any amount of delay can be condoned, provided sufficient cause is shown. It is between these two extremes that we have to steer a middle course.

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.

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



2025:DHC:7034-DB



the Limitation Act or Section 13(1-A) of the Commercial 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."

(emphasis supplied)

6. The Hon'ble Supreme Court in **Borse Brothers Engineers** (*supra*) categorically held that the limitation period prescribed under Section 34(3) of the A&C Act does not apply to appeals under Section 37. The Court explained that the “hard stop” applicable to Section 34 proceedings cannot be mechanically extended to Section 37 appeals. Instead, such appeals are governed either by Articles 116 and 117 of the Limitation Act or by Section 13(1A) of the CC Act, depending on whether the dispute qualifies as a commercial dispute of “Specified Value”. Accordingly, from **Borse Brothers Engineers** (*supra*), the following legal position emerges:

- (i) For commercial disputes of “Specified Value” under the CC Act, the limitation period for filing an appeal under Section 37 is sixty days, as provided in Section 13(1A) of the CC Act; and
- (ii) In all other cases, for filing an appeal under Section 37, the limitation periods prescribed under Articles 116 and 117 of the Limitation Act, will apply.

7. In the said Judgement, the Hon'ble Court further emphasised that while Section 5 of the Limitation Act permits condonation of delay, such discretion must be exercised with caution. It is confined to “short delays” and is to be invoked only where the appellant



2025:DHC:7034-DB



demonstrates *bona fide* conduct, absence of negligence, and lack of prejudice to the respondent.

8. Having regard to the object of both the CC Act and the A&C Act, *namely*, ensuring speedy resolution of commercial disputes, condonation of delay is permissible only upon establishing “*sufficient cause*”, i.e., circumstances genuinely beyond the party’s control, and not arising from negligence, inaction, or wilful indifference. This principle has also been succinctly reiterated by a Coordinate Bench of this Court in ***Union of India vs. Rajiv Agarwal***⁸. The relevant paragraphs of the said Judgement are as follows:

“9. Under Section 37(1)(c) of the Act, an appeal would be maintainable against an order setting aside or refusing to set aside an arbitral award. However, the time period for filing such an appeal is governed by Section 13 of the Commercial Courts Act, 2015. The period provided for filing of an appeal as per Section 13(1) of the Commercial Courts Act, 2015 is 60 days from the date of judgment/order, however, by way of judicial decisions, the provisions of the Limitation Act, 1963 have also been held to be applicable to such appeals.

10. The time period within which an appeal under Section 37 of the Act can be filed has been discussed and laid down in detail by the decision of the Supreme Court in ***Government of Maharashtra (Water Resources Department) Represented By Executive Engineer v. Borse Brothers Engineers & Contractors Pvt. Ltd.***, (2021) 6 SCC 460. In the said judgment the Supreme Court has considered the decisions in ***N.V. International v. State of Assam***, (2020) 2 SCC 109 and ***Union of India v. Varindera Constructions Ltd.***, (2020) 2 SCC 111.

11. In *Varindera Constructions* (Supra), the Court had held that a total of 120 days would be available for filing of such an appeal.

12. In *Borse Brothers* (Supra), the Supreme Court was dealing with three cases arising from judgments of the Bombay High Court, the Delhi High Court and the Madhya Pradesh High Court. The former two High Courts had taken a view that delay in filing of an appeal under Section 37 of the Act beyond 120 days would not be condonable, however, the Madhya Pradesh

⁸ 2025 SCC Online Del 3810.



2025:DHC:7034-DB



High Court had taken a view that a delay of 57 days would be liable to be condoned. While dealing with these cases, the Supreme Court observed as under:

“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.

XXXX

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 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. A conjoint reading of the above two extracts of the judgment in *Borse Brothers (Supra)* would show that the object of speedy disposal under the Act would only be achieved by making such appeals also bound by the limitation period which is prescribed for filing of petitions under Section 34 of the Act. The delay beyond the prescribed period has been held to be not condonable. Under such circumstances, the Supreme Court refused to condone delay of 131 days in ***State of Maharashtra v. Borse Bros. Engineers & Contractors (P) Ltd.***, 2020 SCC OnLine Bom 427 days in ***Union of India v. Associated Constructions Co.***, 2019 SCC OnLine Del 10797 as also 75 days in *Borse Brothers (Supra)*.

14. Coming to the facts of the present case, the present petition has been filed by the Union of India with an application for condonation of delay of 613 days. The reasons given in the application are that the matter was initially marked to different panel Counsel of the Railways and the file movement constitutes sufficient cause for condoning the delay. The relevant portion of the application is set out below:



2025:DHC:7034-DB



“3. It is respectfully submitted that the Appellant received the Impugned Order passed by the Ld. District Judge, Commercial Court, Delhi, on 05.06.2023. After, receipt of the said order, necessary steps were promptly initiated in relation to the present matter. The case file was thereafter forwarded to the Sr. Law Officer/DLI, Railway, along, and the contesting advocate was requested to furnish a legal opinion on the Impugned order. The legal opinion from the learned counsel was received on 07.08.2023. Subsequently, the Sr. Law Officer/DLI, Railway, also opined in favour of preferring an appeal against the said order. Accordingly, the file was processed for obtaining the requisite approval from the competent authority for filing the appeal. After, grant of the necessary approval, the Appellant approached the Litigation Cell, Delhi High Court, for the nomination of counsel to represent the Union of India in the matter. The Litigation Cell, further sought the opinion of the Deputy DGM/Law, Northern Railway Headquarters, through proper official channels. The said Opinion was duly obtained and forwarded to the Litigation Cell, Delhi High Court. Thereafter, the counsel was nominated by the Litigation Cell for drafting and filing the appeal. Thereafter, the complete set of relevant documents was provided to the nominated counsel on 18.03.2024. However, due to certain administrative issues, the previously nominated counsel was changed, and a new counsel was detailed for filing the appeal. The draft appeal was then prepared, processed, checked, and legally vetted. The same was duly signed and handed over to the present counsel for filing before this Hon'ble Court.

4. That in view of above mentioned obligatory and unavoidable circumstances, there is some delay in filling of the aforesaid appeal which is neither intentional, nor deliberate either on the part of department or any authorities rather due to movement of file and also due to compliance of official procedure by the authorities which was beyond the control of the appellant.”

15. The Court has considered the matter. The law in this regard is quite well settled and clear. Recently, in a similar case involving an appeal under Section 37 of the Act, a Co-ordinate Bench of this Court in **Delco Infrastructure Projects Pvt. Ltd. v. Intec Capital Ltd.**, 2025 SCC OnLine Del 2158 has also refused to condone the delay under Section 13(1)(a) of the Commercial Courts Act, 2015 in the following terms:

“10. In **N.V. International v. State of Assam**, (2020) 2 SCC 109, the Supreme Court had taken a view that the



2025:DHC:7034-DB



delay in filing an appeal under Section 37 of the Act cannot be condoned beyond a period of thirty days. However, this decision was overruled by the Supreme Court in a subsequent decision in **Government of Maharashtra (Water Resources Department) Represented By Executive Engineer v. Borse Brothers Engineers & Contractors Pvt. Ltd., (2021) 6 SCC 460**. The Supreme Court held that the power of the court to condone the delay in filing the appeal under Section 37 (1) of the Act was not restricted to a period of thirty days as specified under the proviso to Section 34(3) of the A&C Act. However, the Supreme Court also observed as under:

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 pressing negligent and stale claims...

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 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 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....”

11. It is essential to adhere to time lines in matters involving commercial disputes. Any delay in filing appeals under Section 13(1A) of the Commercial Courts Act, 2015 cannot be condoned unless the court is satisfied that the appellants were prevented from sufficient cause from filing the appeal within the stipulated time. The court must be satisfied that such cause is genuine and not an illusion to disguise lack of diligence.

12. In the facts of the present case, we are unable to accept that the appellants have shown any sufficient cause for condoning the delay in filing the present appeal.”

9. It would also be apposite to refer herein to the Judgment of the



2025:DHC:7034-DB



Coordinate Bench in **Delco Infrastructure vs. Intech Capital**⁹; the relevant paras whereof read as follows:

“9. The application filed by the appellants for seeking condonation of delay in filing the application for setting aside the impugned order dated 14.02.2023 was rejected by the learned Commercial Court by an order dated 27.04.2024. However, the appellants did not take any immediate steps to file the present appeal. The present appeal was filed on 25.07.2024, that is, almost ninety days after the order dated 27.04.2024. There is no explanation whatsoever as to the cause that prevented the appellants from preferring the appeal immediately after 27.04.2024.

10. In **N.V. International v. State of Assam, (2020) 2 SCC 109**, the Supreme Court had taken a view that the delay in filing an appeal under Section 37 of the Act cannot be condoned beyond a period of thirty days. However, this decision was overruled by the Supreme Court in a subsequent decision in **Government of Maharashtra (Water Resources Department) Represented By Executive Engineer v. Borse Brothers Engineers & Contractors Pvt. Ltd., (2021) 6 SCC 460**. The Supreme Court held that the power of the court to condone the delay in filing the appeal under Section 37(1) of the Act was not restricted to a period of thirty days as specified under the proviso to Section 34(3) of the A&C Act. However, the Supreme Court also observed as under:

“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 pressing negligent and stale claims...

* * *

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 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 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....”

11. It is essential to adhere to time lines in matters involving commercial disputes. Any delay in filing appeals under Section 13(1A) of the Commercial Courts Act, 2015 cannot be condoned

⁹ 2025 SCC OnLine Del 2158.



2025:DHC:7034-DB



unless the court is satisfied that the appellants were prevented from sufficient cause from filing the appeal within the stipulated time. The court must be satisfied that such cause is genuine and not an illusion to disguise lack of diligence.

12. In the facts of the present case, we are unable to accept that the appellants have shown any sufficient cause for condoning the delay in filing the present appeal.”

(emphasis supplied)

10. As is evident from the Appellant’s own averments, and in light of the settled legal position, it is clear that the present appeal, arising from a commercial dispute of a “Specified Value” under the CC Act, was required to be filed within sixty days from the date of the impugned order, i.e., on or before 05.04.2025.

11. However, the Appellant failed to do so. The appeal was instituted only on 01.07.2025, much beyond the statutory limit. Accordingly, there exists a delay of 87 days from the expiry of the 60-day limitation period. The computation is set out herein below for ready reference:

Event	Date	Remarks
Impugned Order passed by the learned District Judge	04.02.2025	Starting point for limitation under Section 13(1A) of the CC Act.
Expiry of the 60-day limitation	05.04.2025	Last date for filing appeal, without seeking condonation of delay.
Actual date of filing	01.07.2025	87 days beyond expiry of limitation (i.e., from 05.04.2025).

12. The sole issue that arises for determination is whether the Appellant has shown “sufficient cause” to justify condonation of the 87-day delay beyond the prescribed limitation period. It is settled law that such discretion is to be exercised sparingly and only in



2025:DHC:7034-DB



exceptional circumstances. The burden rests squarely on the Appellant to furnish a clear, cogent, and convincing explanation for the delay. Condonation is neither a matter of right nor to be granted as a matter of routine.

13. The averments in the application for condonation of delay, already extracted hereinabove, reveal that the Appellant is proceeding on a manifest misconception with respect to the computation of limitation.

14. The first ground urged, that the period of court vacation should be excluded under Section 4 of the Limitation Act, is wholly untenable. As held by the Hon'ble Supreme Court in **Ajay Gupta v. Raju @ Rajendra Singh Yadav**¹⁰, the benefit of Section 4 cannot be extended where the Registry remains functional during the court vacation. The relevant portion of **Ajay Gupta (supra)** states as under: -

“3. Section 4 of the Limitation Act, 1963 (hereinafter referred to as “the Act”), dealing with “Expiry of prescribed period when court is closed”, no doubt, applies to suits as well, and in case the prescribed period for any suit, appeal or application expires on a day when the court is closed, the suit, appeal or application may be instituted, preferred or made on the day when the court reopens.

4. The Explanation under Section 4 of the Act also makes it clear that:

“Explanation. —A court shall be deemed to be closed on any day within the meaning of this section if during any part of its normal working hours it remains closed on that day.”

5. There is no case for anybody that even for part of the day, the Registry was closed. But Section 5 of the Act which deals with “Extension of prescribed period in certain cases”, applies only to appeals or applications and not to suits. Therefore, no court or tribunal can extend the period of limitation for filing a suit. Even if any cause, beyond the control of the plaintiff is shown

¹⁰ (2016) 14 SCC 314.



2025:DHC:7034-DB



also, the only extension is what is permitted under Section 4 of the Act, the period coming under court holiday.

6. Thus, both the trial court and the High Court have gravely gone wrong on the first principles on the law of limitation. Therefore, the impugned order is set aside. The application filed by the appellant under Order 7 Rule 11 of the Code of Civil Procedure, 1908 is allowed. Recovery Suit No. 1 of 2011 on the file of the ADJ, Gwalior, Madhya Pradesh is dismissed.”

15. Since it is an undisputed fact that the Registry of this Court remained functional during the summer vacation, the Appellant’s reliance on Section 4 of the Limitation Act is misconceived and cannot be accepted.

16. The second justification advanced by the Appellant is that the certified copy of the impugned order was applied for only after 31 days beyond the statutory 60-day period, and that the additional 18 days consumed in preparation of the copy should also be excluded. This contention too is misplaced. In this regard, observations of the Hon’ble Supreme Court in **Jharkhand Urja Utpadan Nigam Ltd. & Anr. v. M/s Bharat Heavy Electricals Limited**¹¹ are relevant, which state as under: -

“10. We are afraid it is difficult for us to take the view that the provision referred to above is mandatory. It comes to this that till the Registry does not provide the copy of the judgment, though not demanded, the period of limitation would not commence from the date of the pronouncement of the judgment.

13. Although in **Housing Board, Haryana (supra)** this Court had held that where the provisions enjoin a duty of communicating any order or judgment that has been pronounced, the limitation for challenging the same would begin from the date of such communication, yet the aforesaid observations cannot be construed devoid of the context in which they were made. A close reading of the decision would indicate that in the said case, after the pronouncement of the order, the

¹¹ 2025 INSC 533



2025:DHC:7034-DB



appellants therein had made active efforts for procuring the said order, and this is evident from the fact that few days after the pronouncement, the counsel of the appellants therein had made inquiries as regards the unavailability of the order in response to which he was informed that the order was yet to be signed.

14. Thus, when this Court in *Housing Board, Haryana (supra)* held that the limitation for challenging the same would begin from the date of such communication, the same would be applicable only where despite best of efforts at the end of the parties in procuring the order the same could not be obtained and thereby resulting in unavoidable delay in the filing of appeals. One of the core tenets of the law of limitation is to enthrone diligence amongst parties as to their rights. The law of limitation cannot be read in such a manner whereby parties stop showing any modicum of regard for their own rights and on the pre-text of untimely communication continue to litigate without being vigilante themselves.

15. Similarly, we find that the reliance by the appellants on the decision of **Sagufa Ahmed (supra)** is also misplaced. In the said case, this Court while considering Section 421 sub-section (3) of the Companies Act, 2013 held that the period of limitation prescribed therein would start running only from the date on which a copy of the order is made available to the person aggrieved. However, yet again in the said case, the appellants therein had made some efforts to procure a certified copy of the order to be assailed during the period of limitation.

16. In the present case we find that after the order in question came to be pronounced by the Commercial Court, Ranchi, the appellants herein during the limitation period did not bother to even inquire as to why the said order was not available. It was only eight-months after the pronouncement of the said order and almost 150-days after the expiry of the limitation period, that the realization suddenly dawned upon the appellants herein to apply for the certified copy.

17. One of the avowed objects of the provisions of the Commercial Courts Act read with amended provisions of CPC applicable to the Commercial Courts is to ensure that there is no unnecessary delay in disposal of the commercial suit. Once specific time lines are fixed and there is a strict procedure provided in terms of the Commercial Courts Act, parties are by the statute put to notice that they have to very carefully contest the suits filed as commercial suits and that failing to comply with statutory timelines and a strict procedure, certain adverse consequences may flow on account of lack of application by a contesting party.

18. Thus, merely because Order XX Rule I enjoins a duty upon



2025:DHC:7034-DB



the commercial courts to provide the copies of the judgment that does not mean that the parties can shirk away all responsibility of endeavoring to procure the certified copies thereof in their own capacity. Any such interpretation would result in frustrating the very fundamental cannons of law of limitation and the salutary purpose of the Act, 2015 of ensuring timely disposals.”

(emphasis supplied)

17. Thus, the belated application for a certified copy, filed 31 days after the expiry of the statutory period, coupled with the untenable reliance on court vacation, leaves significant portions of the 87-day delay wholly unexplained. In the context of a commercial matter governed by strict timelines under the CC Act, such explanation is neither credible nor sufficient to overcome the bar of limitation.

18. We are, therefore, of the considered view that the application for condonation of delay filed with the present Appeal is bereft of any cogent or persuasive grounds. The explanation tendered is specious and does not constitute “*sufficient cause*” in law.

19. Accordingly, without entering into the merits of the case, the appeal stands dismissed on the ground of delay and limitation alone.

20. The present Appeal, along with pending application(s), if any, is disposed of in the above terms.

21. No order as to costs.

ANIL KSHETARPAL, J.

HARISH VAIDYANATHAN SHANKAR, J.
AUGUST 20, 2025/v/sm/kr