

**IN THE HIGH COURT OF JUDICATURE AT PATNA
COMMERCIAL APPEAL No.4 of 2024**

Arjun Engicon Pvt. Ltd. J-117, P.C. Colony, P.S. Kankarbagh, District Patna-800020, through its Director Ravi Bhushan, Male, aged about 50 years, S/o Late Arjun Singh, resident of J-117, P.C. Colony, Kankarbagh, P.S. Kankarbagh, District Patna.

... .. Appellant

Versus

East Central Railway through Deputy Chief Engineer (Construction)/East Central Railway, Mugalsarai P.S. Mugalsarai, District Chandauli (U.P.).

... .. Respondent

Appearance :

For the Appellant : Mr. Shailendra Kumar Singh, Advocate
For the UOI : Mr. Bindhyachal Rai, Senior Counsel

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
and
HONOURABLE MR. JUSTICE PRAVEEN KUMAR
ORAL ORDER**

(Per: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD)

5 02-02-2026 **I.A. No. 1 of 2026 in Commercial Appeal (DB) No.
4 of 2024**

This interlocutory application has been filed seeking condonation of delay of 6 months and 10 days in filing of the present appeal.

2. The reasons for delayed filing of the appeal are stated in paragraphs ‘5’ and ‘6’ of the application which we reproduce hereunder for a ready reference:-

“5. That the appellant has not filed appeal within limitation period due to the respondent authority has discuss the issue and assurance to pay Principal Award Amount with interest. But therefore the respondent authority has refused to pay (As per Award).

6. That therefore the appellant has



approached before learned Advocate and
file handed over to file appeal.”

3. Apparently, getting confused with the language of paragraph ‘5’, we called upon learned counsel for the appellant to explain as to what would be the actual translation of the statements made in paragraph ‘5’ of the application. At this stage, learned counsel submits that there are typographical and grammatical errors which he could not correct while filing the application. We regret that such an application is coming from the office of a public undertaking.

4. Be that as it may, it appears on perusal of the records that in the present appeal, the impugned order was passed on 21.07.2023. An application for getting certified copy of the impugned order was filed on 27.07.2023 whereafter the notification regarding requirement for folio was made on 03.08.2023, the folios were supplied on 04.08.2023 and the certified copy of the impugned order was delivered on 04.08.2023. In this way, altogether 9 days were taken in supply of the certified copy of the impugned order. In terms of Section 13(1-A) of the Commercial Courts Act, 2015 (hereinafter referred to as the ‘Act of 2015’), the appeal was required to be presented on or before 30.09.2023. This appeal has been presented for the first time on 10.04.2024, therefore, there is a



delay of 6 months and 10 days.

5. It is no longer a *res integra* that Section 13(1-A) of the Act of 2015 does not provide for any provision empowering the Court to condone the delay in filing of an appeal. This aspect of the matter has been well discussed by the Hon'ble Supreme Court in the case of **Government of Maharashtra (Water Resources Department) Represented by Executive Engineer Vs. Borse Brothers Engineers & Contractors Private Ltd.** reported in (2021) 6 SCC 460. Having considered the entire scheme of Section 37 of the Arbitration and Conciliation Act, 1996 and the Act of 2015, their Lordships of the Hon'ble Supreme Court observed in paragraph '63' of the judgment as under:-

“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.”

6. Keeping in view the aforementioned position in law and the mandate of the Hon’ble Supreme Court in paragraph ‘63’ of the judgment in case of **Borse Brothers** (supra), we are of the considered opinion that this inordinate delay of 6 months and 10 days is not fit to be allowed. The delay is such that it has definitely given rise to some right to the other side. The reasons shown in paragraph ‘5’ of the interlocutory application are completely vague, it leads nowhere. The appellant is unable to show that it has otherwise acted bonafide and the delay is not because of any negligence on its part. In this view of the matter, we dismiss the application seeking condonation of delay.

7. I.A. No. 1 of 2026 stands dismissed.

8. As a result of dismissal of the application seeking condonation of delay, the appeal cannot proceed and is dismissed accordingly.

(Rajeev Ranjan Prasad, J)

(Praveen Kumar, J)

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