

Form No.J(2)

IN THE HIGH COURT AT CALCUTTA
Civil Appellate Jurisdiction
Appellate Side

Present : The Hon'ble Mr. Justice Sabyasachi Bhattacharyya
&
The Hon'ble Mr. Justice Biswaroop Chowdhury

FAT No. 60 of 2026

Mahesh Sunny Enterprises Pvt. Limited
-vs-
Commercial Department, NSCBI Airport and another

For the appellant : Mr. Rwitendra Banerjee,
Mr. Sandip Kundu, Advs.

For the respondent : Mr. Anup Kanti Podder,
Ms. Anjali Shah, Advs.

Heard on : May 19, 2026.

Judgment on : May 19, 2026.

Sabyasachi Bhattacharyya, J.:

Re: CAN 3 of 2026 (appropriate order)

1. The present appeal arises out of an order passed under Section 28G of the Airports Authority of India Act, 1994 (in short "the 1994 Act"), under the provisions of Section 28-K of the said Act.

2. Since such proceeding is in the nature of an application and is not capable of valuation as such, the report of the Additional Stamp Reporter to the effect that the valuation statement is missing can be dealt with by permitting the appellant to enumerate in the valuation statement that the appeal is incapable of valuation.
3. Accordingly, such rectification shall be carried out in the memorandum of appeal by the learned Advocate-on-record for the appellant during the course of the day. Also, leave is granted to the learned Advocate-on-record for the appellant to classify the appeal appropriately and to carry out other amendments to cure the defects pointed out by the Additional Stamp Reporter during the course of the day.
4. CAN 3 of 2026 is allowed.

Re: FAT No. 60 of 2026.

5. At this juncture, a question arises as to whether the appeal is time-barred and, if so, whether the delay in filing the same can be condoned by this Court.
6. Section 28-K of the 1994 Act, which is the appellate provision governing the instant appeal, reads as follows :

“28-K. Appeals to Tribunal- (1) Any person aggrieved by an order of the eviction officer under this chapter may, within fifteen days from the date of such order, prefer an appeal to the High Court:

Provided that the High Court may entertain any appeal after the expiry of the said period of fifteen days, but not after the period of thirty days from the aforesaid, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

*(2) [* * *]*

*(3) [* * *]*

*(4) [* * *]*

*(5) [* * *]”*

7. Thus, the under normal circumstances, the limitation for filing an appeal under the said provision is fifteen days from the date of the order.
8. A further period of fifteen days is stipulated in the proviso, within which the High Court may entertain any appeal if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.
9. However, the proviso is couched in a negative language inasmuch as the High Court, in terms thereof, may not

entertain any appeal under the said provision after the period of thirty days from the order, even if it is satisfied that there was sufficient cause for the delay.

10. In the above backdrop, we find from the submission of learned counsel for the appellant that the impugned order was passed on September 16, 2025. An appeal was initially filed against the same, erroneously, before the Commercial Division of this Court on September 25, 2025. On January 22, 2026, the same was withdrawn with liberty to file before the appropriate forum.
11. Subsequently, the memorandum of the instant appeal was presented on February 13, 2026.
12. Learned counsel for the appellant argues that the period of pendency of the appeal, filed erroneously before the Commercial Division of this Court, should be excluded from the statutory limitation period or, at least, be considered to furnish sufficient explanation for the delay in preferring the appeal.
13. Although not argued specifically, we shall also consider whether the benefit of Section 14 of the Limitation Act, 1963 is

applicable by default unless otherwise specifically excluded by a particular statute.

14. Even if we grant the benefit of Section 14 of the Limitation Act to the appellant or treat the pendency of the previous appeal, filed wrongly before the Commercial Division, as sufficient cause for the delay in preferring the present appeal, such benefit cannot extend beyond the period during which the challenge was pending before the Commercial Division of this Court, that is, from September 25, 2025 till January 22, 2026. If we exclude such period, the statutory limitation period of fifteen days had expired after six days from January 22, 2026, since nine days out of the fifteen days' statutory period was lost by the appellant in preferring the appeal on September 25, 2025 whereas the order was passed on September 16, 2025.
15. Even if we add a further fifteen days thereto, during which period the High Court has the discretion, if satisfied under the proviso to Section 28-K, to entertain such appeal, the outer time-limit within which such appeal can be entertained, that is, thirty days from the date of the impugned order, expired on February 12, 2026.

16. However, the appeal was filed on February 13, 2026, that is one day thereafter.
17. Thus, whether we extend the benefit of Section 14 of the Limitation Act, 1963 or treat the period during which the prior appeal was pending before the Commercial Division of this Court (which did not have jurisdiction to entertain the appeal), the High Court does not have power (as per the proviso to Section 28-K) after the expiry of thirty days from the order to entertain the appeal under any pretext, even if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.
18. The proviso to Section 28-K of the 1994 Act being couched in negative language, the High Court is denuded of the power to entertain an appeal after the expiry of thirty days from the impugned order, under any ground whatsoever. The said fetter, being worded in absolute terms, robs this Court of the jurisdiction to entertain an appeal after such period.
19. Thus, we hold that the appeal is time-barred and that this Court is precluded from entertaining the appeal, by dint of the statutory embargo stipulated in the proviso to Section 28-K of

the 1994 Act, after the expiry of the period of thirty days from the impugned order.

20. Accordingly, FAT No. 60 of 2026 is dismissed as time-barred.

21. CAN 1 of 2026 and CAN 2 of 2026 are dismissed consequentially.

22. There will be no order as to costs.

23. Urgent photostat certified copies of the order, if applied for, be supplied to the parties at an early date.

I agree.

(Sabyasachi Bhattacharyya, J.)

(Biswaroop Chowdhury, J.)