



CGHC010156082025

2026:CGHC:32158-DB
NAFR**HIGH COURT OF CHHATTISGARH AT BILASPUR****ARBA No. 29 of 2025**

1. South East Central Railway Through The General Manager, South East Central Railway Bilaspur, District Bilaspur (C.G.) Pin 495004
2. The Chief Administrative Officer (Construction) South East Central Railway Bilaspur, District Bilaspur (C.G.) Pin 495004
3. Dy. Chief Engineer (Con)/ T. And S., S.E.C.R. Through Its Presenting Officer, Dy. Chief Engineer (Con)/ Works, South East Central Railway Bilaspur, District Bilaspur (C.G.) Pin 495004

... APPELLANTS**versus**

1. M/s Mak Engineering Industries Ltd 8/1a, Middleton Row, 3rd Floor, Kolkata - 700071

... RESPONDENT

For Appellants	: Mr. R.K. Mishra, Dy. Solicitor General of India
For Respondent	: Mr. Ali Asgar, Advocate

DB: Hon'ble Mr. Justice Parth Prateem Sahu, J
& Hon'ble Mr. Justice Sachin Singh Rajput, J

Order on Board**Per Parth Prateem Sahu, J****27.07.2026**

1. Heard on I.A. No.1/2025, an application for condonation of delay as the present arbitration appeal is preferred with a delay of 69 days.

2. Learned counsel for appellant would submit that arbitration appeal against the order dated 03.08.2024 was initially filed by way of e-filing portal on 14.11.2024, however, due to defect of deficit court fee etc., e-filing was rejected. Rejection of e-filing on account of deficit court fee came to knowledge on 03.01.2025 only and thereafter fresh appeal was presented curing the defects of payment of proper court fee etc. He submits that the delay occurred in preferring this appeal is neither intentional or deliberate but due to above reason. Appellant has good grounds on merits and no prejudice will be caused to respondent in case delay is condoned. Hence, he would pray to condone the delay. In support of his contention, he places reliance on decision of Hon'ble Supreme Court dated 7.2.2025 in Special Leave to Appeal (C) No.21111/2024 (Ms SAB Industries Limited vs The State of Himachal Pradesh).
3. Learned counsel appearing on behalf of respondent would oppose the submissions of learned counsel for appellant and submit that the order impugned passed by the Commercial Court (District Judge Level) Raipur on the application filed under Section 34 of the Act of 1996 is dated 03.08.2024 and present appeal is filed on 19.4.2025 i.e. after expiry of period of limitation prescribed. He submits that the delay cannot be condoned mechanically merely because the appellant is a government department. Delay cannot be condoned as a routine but it can be condoned only when

sufficient cause is shown. Hence, he prays for dismissal of application for condonation of delay and consequently appeal itself.

4. We have heard learned counsel for respective parties on I.A. No.1/2025, application for condonation of delay.
5. This appeal is filed under Section 13 (1) of the Act of 2015 read with Section 37 of the Act of 1996. Limitation prescribed under Section 13 (1A) of the Act of 2015 for filing an appeal is 60 days from the date of judgment or order. The order under challenge is dated 30.8.2024 and the office has reported that appeal so filed by appellant is barred by 69 days and not accompanied with application for condonation of delay. Application for condonation of delay has been filed on 5.2.2025.
6. Before proceeding further, this Court deems it fit and proper to refer certain legal proposition, as has been propounded by the Hon'ble Apex Court with respect to the approach of the Court in condoning the delay in like cases.
7. In case of **Government of Maharashtra (Water Resources Department) Vs. Borse Brothers Engineers & Contractors Private Limited**, reported in **(2021) 6 SCC 460** Hon'ble Supreme Court has observed that sub-section (1-A) of Section 13 of the Act of 2015 provides the forum for appeals as well as limitation period to be followed. Section 13 of the Act of 2015 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 Act of 2015 lays down a period of limitation of 60 days uniformly for all appeals that are preferred under Section 37 of the Act of 1996. Hon'ble Supreme Court in the aforesaid decision has also considered as to whether delay can be condoned or not, if appeal under Section 13 (1-A) of the Act of 2015 is filed with delay, and observed thus:-

“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(1A) of the Commercial Courts Act does not contain any provision akin to section 34(3) of the Arbitration Act. Section 13(1A) 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.

41. Section 21 of the Commercial Courts Act was also pressed into service stating that the non-obstante clause contained in the Commercial Courts Act would override other Acts, including the Limitation Act, as a result of which, the applicability of section 5 thereof would be excluded. This argument has been addressed in the context of the IBC in B.K. Educational Services (P) Ltd. v. Parag Gupta & Associates, as follows: (SCC p.664, para 41)

“41. Shri Dholakia argued that the Code being complete in itself, an intruder such as the

Limitation Act must be shut out also by application of Section 238 of the Code which provides that, “notwithstanding anything inconsistent therewith contained in any other law for the time being in force”, the provisions of the Code would override such laws. In fact, Section 60 (6) of the Code specifically states as follows:

“60. Adjudicating authority for corporate persons.—(1) - (5) * * *
 (6) Notwithstanding anything contained in the Limitation Act, 1963 (36 of 1963) or in any other law for the time being in force, in computing the period of limitation specified for any suit or application by or against a corporate debtor for which an order of moratorium has been made under this Part, the period during which such moratorium is in place shall be excluded.” This provision would have been wholly unnecessary if the Limitation Act was otherwise excluded either by reason of the Code being complete in itself or by virtue of Section 238 of the Code. Both, Section 433 of the Companies Act as well as Section 238-A of the Code, apply the provisions of the Limitation Act “as far as may be”. Obviously, therefore, where periods of limitation have been laid down in the Code, these periods will apply notwithstanding anything to the contrary contained in the Limitation Act. From this, it does not follow that the baby must be thrown out with the bathwater. This argument, therefore, must also be rejected.”

42. For all these reasons we reject the argument made by Shri George that the application of section 5 of the Limitation Act is excluded given the scheme of Commercial Courts Act.

50. From this paragraph, what was sought to be argued was that the limitation of power on a civil court at the initial stage can be read as a limitation onto the appellate

court, as was done in the aforesaid judgments. We are afraid that we are unable to agree. This sentence was in the context of a decree passed in a civil suit for a sum of rupees 3.09 lakh with interest, without taking into consideration the fact that an amount of rupees 2.10 lakh had already been deposited by the appellant in criminal proceedings. The Court relied upon section 357 (5) of the Code of Criminal Procedure, 1973 to hold that “the court” shall take into account any sum paid or recovered as compensation at the time of awarding compensation in any subsequent civil suit relating to the same matter. “The court” would obviously include an appellate court as well. It was only in this context that the aforesaid observation of limitation of power on a civil court being “borne in mind” by the appellate court, was made.

51. Shri George’s reliance upon the judgment of this Court in *P. Radha Bai v. P. Ashok Kumar*, (2019) 13 SCC 445 (at paragraphs 36.2-36.3) on the doctrine of unbreakability when applied to section 34 (3) of the Arbitration Act, also does not carry the matter much further, as the question is whether this doctrine can be bodily lifted and engrafted onto an appeal provision that has no cut-off point beyond which delay cannot be condoned.

52. For all these reasons, given the illuminating arguments made in these appeals, we are of the view that *N.V. International* (supra) 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*, 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.”

8. In the aforementioned case Hon’ble Supreme Court has laid down the law as to when delay beyond the period prescribed under Section 13 of the Act of 2015 can be condoned. It was observed as follows:-

“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(1A) 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.

56. The expression “sufficient cause” contained in section 5 of the Limitation Act is elastic enough to yield different results depending upon the object and context of a statute. Thus, in *Ajmer Kaur v. State of Punjab*, this Court, in the context of section 11(5) of the Punjab Land Reforms Act, 1972, held as follows:

“10. Permitting an application under Section 11(5) to be moved at any time would have disastrous consequences. The State Government in which the land vests on being declared as surplus, will not be able to utilise the same. The State Government

cannot be made to wait indefinitely before putting the land to use. Where the land is utilised by the State Government, a consequence of the order passed subsequently could be of divesting it of the land. Taking the facts of the present case by way of an illustration, it would mean that the land which stood mutated in the State Government in 1982 and which was allotted by the State Government to third parties in 1983, would as a result of reopening the settled position, lead to third parties being asked to restore back the land to the State Government and the State Government in turn would have to be divested of the land. The land will in turn be restored to the landowner. This will be the result of the land being declared by the Collector as not surplus with the landowner. The effect of permitting such a situation will be that the land will remain in a situation of flux. There will be no finality. The very purpose of the legislation will be defeated. The allottee will not be able to utilise the land for fear of being divested in the event of deaths and births in the family of the landowners. Deaths and births are events which are bound to occur. Therefore, it is reasonable to read a time-limit in sub-section (5) of Section 11. The concept of reasonable time in the given facts would be most appropriate. An application must be moved within a reasonable time. The facts of the present case demonstrate that redetermination under sub-section (5) of Section 11 almost 5 years after the death of Kartar Kaur and more than 6 years after the order of the Collector declaring the land as surplus had become final, has resulted in grave injustice besides defeating the object of the legislation which was envisaged as a socially beneficial piece of legislation. Thus we hold that the application for redetermination filed by Daya Singh under sub-section (5) of Section 11 of the Act on 21-6-1985 was liable to be dismissed on the ground of inordinate delay and the Collector was wrong in reopening the issue declaring the land as not surplus in the hands of Daya Singh and Kartar Kaur.

11. The above reasoning is in consonance with the provision in sub-section (7) of Section 11 of the Act. Sub-section (7) uses the words “where succession has opened after the surplus area or any part thereof has been determined by the Collector ...”. The words “determined by the Collector” would mean that the order of the Collector has attained finality. The provisions regarding appeals, etc. contained in Sections 80-82 of the Punjab Tenancy Act, 1887, as made applicable to proceedings under the Punjab Land Reforms Act, 1972, show that the maximum period of limitation in case of appeal or review is ninety days. The appeal against the final order of the Collector dated 30-9- 1976 whereby 3.12 hectares of land had been declared as surplus was dismissed on 27-3-1979. The order was allowed to become final as it was not challenged any further. Thus the determination by the Collector became final on 27-3-1979. The same could not be reopened after a lapse of more than 6 years by order dated 23-7-1985. The subsequent proceedings before the Revenue Authorities did not lie. The order dated 23-7-1985 is non est. All the subsequent proceedings therefore fall through. The issue could not have been reopened.”

(emphasis supplied)

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. This Court, in *Basawaraj v. Land Acquisition Officer*, has held: (SCC pp. 85-88 paras 9-15)

“9. Sufficient cause is the cause for which the defendant could not be blamed for his

absence. The meaning of the word “sufficient” is “adequate” or “enough”, inasmuch as may be necessary to answer the purpose intended. Therefore, the word “sufficient” embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, “sufficient cause” means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has “not acted diligently” or “remained inactive”. However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any “sufficient cause” from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See *Manindra Land and Building Corpn. Ltd. v. Bhutnath Banerjee*, *Mata Din v. A. Narayanan*, *Parimal v. Veena and Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai*).

10. In *Arjun Singh v. Mohindra Kumar* this Court explained the difference between a “good cause” and a “sufficient cause” and observed that every “sufficient cause” is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of “sufficient cause”.

11. The expression “sufficient cause” should be given a liberal interpretation to ensure that

substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide *Madanlal v. Shyamlal and Ram Nath Sao v Gobardhan Sao*)

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. “A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.” The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means “the law is hard but it is the law”, stands attracted in such a situation. It has consistently been held that, “inconvenience is not” a decisive factor to be considered while interpreting a statute.

13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to *Halsbury's Laws of England*, Vol. 28, p. 266:

“605. Policy of the Limitation Acts.—The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good

causes of actions should pursue them with reasonable diligence.”

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence or laches. (See *Popat and Kotecha Property v. SBI Staff Assn, Rajender Singh v. Santa Singh and Pundlik Jalam Patil v. Jalgaon Medium Project.*)

14. In *P. Ramachandra Rao v. State of Karnataka* this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in *Abdul Rehman Antulay v. R.S. Nayak*.

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the “sufficient cause” which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

(emphasis supplied)

59. Likewise, merely because the government is involved, a different yardstick for condonation of delay cannot be laid down. This was felicitously stated in *Postmaster General v. Living Media India Ltd.*, [“Postmaster General”], as follows:

“27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for

the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.”

9. In case of Borse Brothers (supra), Hon’ble Supreme Court has considered unexplained delay of 75 days to be long delay and further observing that reasons assigned in the application seeking condonation of delay to be short of making out sufficient cause, the delay condoned by High Court was set aside.
10. Coordinate Bench of this Court in case of **State of Chhattisgarh Vs. Cube Engitech Consultants (P) Limited**, in **ARBA No. 53 of 2023**, decided on 20.12.2024, relying on the decision of Hon’ble Supreme Court in **Borse Brother (supra)**, has dismissed application for condonation of delay of 42 days.
11. Keeping in mind above principles laid down by Hon’ble Supreme Court, let us now examine whether appellant has shown sufficient cause for condoning the delay in filing present arbitration appeal?
12. Appellant has sought condonation of delay in filing this appeal pleading as under:-

“2. It is submitted that appellant has filed the instant appeal by way of e-filing on 14.11.2024 however, due to deficit court fees the same has been rejected and the counsel for the appellant could only see the same being rejected on 03.01.2025 and therefore there is some delay in filing of the fresh appeal through e-filing which is Bonafide and not deliberated.

3. The appellant says and submits that initially the appeal has been filed well within time however due to aforesaid defects the appeal as e-filed has been rejected and now fresh filing is being done with the requisite court fees in which some time has elapsed and thus the same deserve to condone.

4. The appellant has very good case on merits and there are all possibilities of his success in the matter and since the delay has occasioned because of the aforestated grounds thus the same deserves to be condoned in the way of imparting justice.”

13. As regards pleading in application for condonation of delay that appeal was initially filed through e-filing on 14.11.2024, the same is verified from the staff of Filing Section of the High Court and this Court has been informed that case entry initiated on 14.11.2024 but no appeal was submitted. Appeal was e-filed for the first time on 06.01.2025, which eventually was returned on 09.01.2025 in view of the defects in appeal. On 14.2.2025, the appeal was re-filed without removing the defects, hence, it was again returned on 20.02.2025 for curing defects. Next filing was on 18.3.2025 and it was again returned on 20.3.2025 for defects. Finally, the appeal was filed without defects on 19.4.2025, which was verified on 21.04.2025, and thereafter the appeal was registered. Thus, it is clear that duly constituted appeal is filed only on 19.4.2025. E-

filing entries of instant appeal is also placed for perusal of this Court.

14. From the above extracted paras of application for condonation of delay in filing this appeal, it is appearing that according to appellant, the delay has occasioned on account of rejection of e-filing of appeal due to non-payment of requisite court fee. However, except mentioning the dates of e-filing and rejection of e-filing, application for condonation of delay is completely silent as to why memorandum of appeal was submitted without requisite court fee and why the deficiency remained uncured for the relevant period. No explanation has been offered explaining the delay for the period from the date of rejection of e-filing of appeal for curing the defects till filing of appeal without defects. It may be noticed here that from 6.1.2025 to 18.3.2025 appeal is filed and re-filed by way of e-filing and returned by pointing out some defects. Appeal without defects was filed only on 19.4.2025. Defects pointed out by the Registry relate to non-filing of application for condonation of delay as the appeal was preferred with a delay of 69 days, non-payment of requisite court fee on appeal etc. There is also no explanation as to why aforementioned defects remained uncured for such a prolonged period.
15. That apart, it is not in dispute that appellants were well aware about the order dated 30.8.2024 passed by the Commercial Court (District Judge Level) Raipur. Application for obtaining certified

copy of the order dated 30.8.2024 was made on 4.9.2024 and it was delivered on the same day, as is reflecting from the note prepared by the office. Prescribed period of limitation for challenging the order dated 30.8.2024 by way of filing an arbitration appeal is 60 days. Meaning thereby, period of limitation to challenge the order dated 30.8.2024 was expired on 29.9.2024. Therefore, presuming that appellant has initiated to file instant appeal through e-filing on 14.11.2024 but not filed, the fact remains that it is filed beyond period of limitation and appellant has not shown any sufficient cause for condonation of delay for the circumscribed interval i.e. from the last date on which prescribed period of limitation was expired and the date on which appeal is actually filed. Appellants must have shown with accuracy and precision as to why such delay has been caused, which they failed to do so. It is well settled proposition of law, when appeal is presented after period of limitation, not due to bona fide mistake, but without sufficient cause, the delay cannot be condoned. Merely because a wing of the Government is a party before us, delay cannot be condoned mechanically.

16. From the above discussion it is evident that there was delay at every stage and except mentioning the dates, there is no explanation as to why such delay had occasioned. Hence, in our considered opinion, the appellants have miserably failed to give

any acceptable and cogent reason sufficient to condone the delay in filing instant arbitration appeal.

17. The law with respect to the consideration of 'sufficient cause' is well settled in the judgment delivered by Hon'ble Supreme Court in the case of **Postmaster General vs Living Media India Ltd.**, reported in **(2012) 3 SCC 563**, wherein it was observed that it is right time to inform all the government bodies, their agencies and instrumentality that unless they have reasonable and acceptable explanation for the delay and there was *bona fide* effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. The decision in Postmaster General (supra) has been followed by Hon'ble Supreme Court in its decision in cases of State of Rajasthan vs Balkishan Mathur, (2014) 1 SCC 592; State of UP vs Amar Nath Yadav, (2014) 2 SCC 422; State of T.N. vs. N. Suresh Rajan, (2014) SCC 11 709 and State of MP vs Bherulal, (2020) 10 SCC 654.

18. In the above facts of the case and decision of Hon'ble Supreme Court, we are of the considered view that appellant fails to make out case of sufficient cause to condone the delay of 69 days in filing this appeal. Delay of 69 days in the facts of the case when proceeding is filed before this Court under the provisions of the Act of 2015, is a long delay and therefore, application seeking condonation of such delay is liable to be and is hereby dismissed. Consequently, appeal filed under Section 13 of the Act of 2015 read with Section 37 of the Act of 1996 is also dismissed as barred by limitation.

Sd/-
(Parth Prateem Sahu)
Judge

Sd/-
(Sachin Singh Rajput)
Judge

roshan/-