IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

R/CIVIL APPLICATION (FOR CONDONATION OF DELAY) NO. 5582 of 2025

In F/FIRST APPEAL/32983/2025

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M/S. OIL AND NATURAL GAS CORPORATION LTD.

Versus

EMPLOYEES STATE INSURANCE CORPORATION & ANR.

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Appearance:
MR AKSHAT KHARE(5912) for the Applicant(s) No. 1
MR SACHIN D VASAVADA(3342) for the Respondent(s) No. 1
RULE SERVED for the Respondent(s) No. 2

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CORAM:**HONOURABLE MR. JUSTICE J. C. DOSHI**

Date : 09/06/2026

ORDER

1. Heard learned advocates for the respective parties.

2. The present application, invoking Section 5 of the Limitation Act, 1963, seeks condonation of an inordinate delay of ***610*** days in preferring the captioned First Appeal filed u/s 85 of the ESI Act against the impugned order dated 28.12.2023 passed by the learned ESI Court No.2 at Vadodara in ESI Application No.13 of 2011.

3. Learned advocate appearing for the applicant in order to explain the delay, would mainly argue that the officer in charge of the appellant did not take any cognizance of the order within the stipulated time period and it has caused immense loss to the appellant. He would further submit that

two contradictory orders have been passed on identical facts; one by ESI Court at Vadodara which is impugned in this matter and another the ESI Court at Ahmedabad, which has accepted the application filed by the appellant u/s 75 of the ESI Act and therefore, to clear the anomaly or inconsistency in the orders, first appeal is required to be filed. He would further submit that therefore, this Court should take liberal approach by condoning the delay and thereby, should give chance to the applicant to put its case on merit.

3.1 Merely upon above submission, learned advocate for the applicant prays to allow this application by condoning the delay and to register the First Appeal.

4. Learned advocate appearing for the respondent No.2 did not appear despite rule is served.

4.1 Learned advocate Mr. Vasavada for the respondent No.1 heavily opposed the application by arguing that there is no reason much less sufficient reason to condone the delay. He would further submit that except para 2 of the application, no other reasons are pleaded which could be considered as sufficient reasons. He would further submit that if the officer of the appellant in his lame lethargy did not take any cognizance, it would not be a reason to condone the delay. To meet with the submission that two ESI courts have passed two different and contradictory orders, learned advocate Mr. Vasavada would submit that the ESI Court at Ahmedabad did not accept the application filed by the appellant, but rather remanded the matter back for fresh consideration, which,

nonetheless, cannot be considered as a matter in connection with the impugned order.

4.2 Upon above submissions, learned advocate Mr. Vasavada prays to dismiss the petition.

5. Having heard learned advocates for both the sides and applying thoughtful consideration to the present application, what could be noticeable that except para 2 of the application, no other paragraphs demonstrate any reason much less sufficient reason to condone the delay. Para 2 reads as under:-

> *"2. The Applicant states that that the impugned common judgment was passed by the Ld. Employees State Insurance Court No.2, Vadodara, on 28.12.2023 and the certified copy of the order was applied on 15.04.2024. The said certified copy of order was ready on 23.04.2024. Thereafter, the said order was forwarded to the applicant by its advocate. It is specifically stated that the concerned officer who was the then in-charge of subject matter had not taken any cognizance of impugned order. Thereafter, the said officer was transferred in June 2025 and the charge was taken over by present officer [who has deposed in present affidavit being authorized by Competent Authority]. When the respondent ESIC had sent reminder letter dated 21.08.2025 for compliance of impugned order, then only present officer had got knowledge of impugned order. It is then present officer has forwarded the case papers to its concerned department and legal office and other competent authority at headquarters and then the applicant has decided to file present appeal against the said order before the High Court of Gujarat. Thereafter, the said case papers was sent to the concerned Advocate in 25/09/2025 for filing appeal before Hon'ble Gujarat*

High Court. Further time is consumed for retrieving old records of office files as well as from the court. Thus the applicant had filed present First Appeal within application for condonation of delay in filing First Appeal."

6. As far as delay has been sought to be condoned, under Section 5 of the Limitation Act, 1963, let refer section 5 as under:-

"**5. Extension of prescribed period in certain cases.—**
Any appeal or any application, other than an application under any of the provisions of Order XXI of the Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period, if the appellant or the applicant satisfies the court that he had sufficient cause for not preferring the appeal or making the application within such period.

Explanation.—The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of this section."

7. The applicant was obliged to satisfactorily demonstrate and explicate the colossal delay and to convince the Court that sufficient cause existed for not preferring the appeal / application or moving the requisite application within the statutorily prescribed period. Ordinarily, the Courts adopt a liberal approach while considering applications for condonation of delay under Section 5 of the Limitation Act, provided that the delay is duly attributable to sufficient cause. Delay cannot be condoned by a mere invocation of "liberal

approach," "justice-oriented approach," or "substantial justice." These oft-quoted expressions cannot be deployed to jettison or emasculate the substantive law of limitation.

8. Rule of limitation is based upon principles of sound public policy and principles of equity. Indeed expression 'sufficient cause' should receive liberal construction so as to advance substantial justice. This proposition comes into picture when no negligence or inaction or want of bona fide is imputable to party seeking condonation of delay. Whether explanation furnished would constitute 'sufficient cause' or not will depend on facts of each case and there cannot be straitjacket formula for accepting or rejecting explanation furnished for delay caused in taking steps. While considering the matter, the Court is also required to consider all the fact that why party has not taken steps within time prescribed. The Court should not lose sight of the fact that by not taking steps within the time prescribed time, valuable right has accrued to other party which should not lightly be defeated by condoning delay in routine like manner.

9. Theory of liberal approach should be adjudicated on theory of due diligence. In the present case, length of delay is 610 days. It is quite long delay and on going through application as well as arguments, it remains unexplained. They are propelled by the applicant, it does not seem to be germane one and none of the reasons prevented the applicant from filing FA within time period. It is to be remembered that

pleadings and reasons are not backed out by any documentary evidence.

9.1 If we go through para 2 of the application, it pleaded that certified copy of the impugned order was ready on 23.4.2024, which was forwarded to the applicant by its advocate. However, the officer in charge of the subject matter has not taken any cognizance of the impugned order and therefore, said officer was transferred in June, 2025 and charge was taken over by present officer. Nonetheless, even if, it is accepted, the new officer has taken charge in June 2025 and the application is preferred only on 16.10.2025 and there is no explanation that why even further 04 months' time has been taken.

10. According to this Court, the applicant has failed to establish any sufficient reasons which has prevented them to file FA within stipulated time period.

11. Recently, in the case of **State of Odisha & Ors. Vs Managing Committee of Namatara Girls High Schools 2026 INSC 148,** the Hon'ble Supreme Court, after referring to various authorities on the subject matter in paras 17 to 21 21 are held as under :-

> *"17. Indeed, one of us [Dipankar Datta] in Sheo Raj Singh v. Union of India 14 authoring the judgment for a coordinate Bench adopted the view taken in Katiji (supra), Ramegowda (supra) and a host of other decisions following the same while not interfering with an order of condonation of delay passed by the relevant high court. However, it was*

observed that a distinction ought to be drawn between an 'explanation' and an 'excuse' that is proffered as cause for condonation of delay. It was also emphasized that a different approach has to be adopted while this Court is considering an application for condonation of delay in presentation of an appeal/application and when it sits in appeal over a discretionary order of the high court granting the prayer for condonation of delay. In the case of the former, whether to condone or not would be the only question whereas in the latter, whether there has been proper exercise of discretion in favour of grant of the prayer for condonation has to be examined.

18. However, what perhaps remained unnoticed in any of the decisions post Katiji (supra) and Ramegowda (supra) adopting a liberal approach is the exasperation and consequent lament expressed by none other than Hon'ble M.N. Venkatachaliah, CJI. in course of authoring a brief order in Commissioner of Wealth Tax, Bombay v. Amateur Riders Club, Bombays and admonishing officers of the "revenue" in not acting with promptitude. This order was made within six years of the decision in Ramegowda (supra). We can do no better than quoting the same in its entirety hereunder:

> *1. We have heard Shri S.C. Manchanda, learned senior counsel for the Revenue.*
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> *2. This special leave petition filed on November 16, 1993 is delayed by 264 days. For quite some time in the past, this Court has been making observations as to the grave prejudice caused to public interest by appeals brought on behalf of the Government being lost on the point of limitation, Such observations have been made for over a few years in the past. But there seems to be no conspicuous improvement as is apparerit in the present petition which is flied in November 1993. The explanation for the delay, had better be set out In petitioner's own words:*

> *"(g) The Advocate-on-Record got the special leave petition drafted from the drafting Advocate and sent the same for approval to the Board on June 24, 1993 along with the case file.*
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> *(h) The Board returned the case file to the Advocate-on-Record on July 9, 1993 who re-sent the same to the Board on September 20, 1993 requesting that draft SLP was not approved. by the Board. The Board after approving the draft SLP sent this file to CAS on October 1, 1993."*
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> *3. This explanation is incapable of furnishing a judicially acceptable ground for condonation of delay. After the earlier observations of this Court made in several cases in the past, we hoped that the matters might Improve. There seems to be no visible support for this optimism, There is a point beyond which even the courts cannot help a litigant even if the litigant is Government which is itself under the shackles of bureaucratic indifference. Having regard to the law of limitation which binds everybody, we cannot find any way of granting relief. It is true that Government should not be treated as any other private litigant as, indeed, in the case of the former the decisions to*

19. Reading Ramegowda (supra) and Amateur Riders (supra), one after the other, leaves none in doubt that it did not take much time for this Court to lose hope. It is absolutely clear that the law was laid down in Ramegowda (supra), following Katiji (supra), with much optimism that matters would improve. Their Lordships, however, found no visible support for such optimism and the Court's patience having been tested to the extreme limit, held that there is a point beyond which even the courts cannot help a litigant even if the litigant labouring under the shackles of bureaucratic indifference is the Government.

20. We have found the State of Odisha to be utterly

> *lethargic, tardy and indolent not only before the High Court but also before this Court. Notwithstanding that its appeal was dismissed as time-barred by the High Court, this Court has been approached by the State of Odisha four months after expiry of the period of limitation.*
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> *21. Condonation of delay cannot be claimed as a matter of right. It is entirely the discretion of the Court whether or not to condone delay. Despite all the latitude that is shown to a "State", we are of the clear opinion that the cause sought to be shown here by the State of Odisha is not an explanation but a lame excuse. No case for exercise of discretion has been set up."*

12. Thus in the facts and in circumstances, this Court is of the opinion that applicant was not diligent in availing remedy of appeal / application. The averments made in the application seeking condonation of delay in filing application do not inspire any acceptable cause much less sufficient cause to exercise discretion in its favour.

13. In view of the aforesaid discussion, and upon a meticulous application of the ratio *decidendi* adverted to hereinabove, this Court finds that, in absence whereof, the very foundation of the allegations crumbles, there is no cogent or credible explanation forthcoming for the inordinate and colossal delay of **610 *days***. The application, being *sans* merits, inexorably merits dismissal and is, accordingly, **DISMISSED**.

14. Consequently, the prayer for registration of the First Appeal also stands rejected.

15. Consequently, CA/s, if any, does not survive and stands disposed of accordingly.

(J. C. DOSHI,J)

SHEKHAR P. BARVE

Original copy of this order has been signed by the Hon'ble Judge.
Digitally signed by: SHEKHAR PRAFULBHAI BARVE(HC00200), Principal Pvt. Secretary, at High Court of Gujarat on 09/06/2026 14:32:27