Shivgan

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
INTERIM APPLICATION NO. 5379 OF 2026
IN
INCOME TAX APPEAL (L) NO.26779 OF 2025

Commissioner of Income Tax
International Taxation 2 Mumbai ...Applicant

Versus

Huntsman Investments Netherlands B V ...Respondent

Mr Prathmesh P Bhosle, for Applicant.
Mr Atul K Jasani, for Respondent.

CORAM: G. S. KULKARNI &
DR. NEELA GOKHALE, JJ.

DATE: 9th OCTOBER 2026

P.C.

1. By this Interim Application, the applicant/appellant has prayed for condonation of delay of 124 days in filing the aforesaid Appeal under Section 260A of the Income-tax Act, 1961 ("the Act").

2. The case of the Applicant is that the order dated 31st July 2024 passed by the Income Tax Appellate Tribunal, Mumbai Bench ("ITAT") in I.T.A. No.4222/Mum/2023 for Assessment Year 2021-22 ("the Impugned Order"), whereby the appeal filed by the Respondent/assessee was allowed, was received in certified copy by the office of the Applicant on 24th December 2024. It is stated that a scrutiny report was initially prepared by the Assessing Officer, wherein the Assessing Officer and the Range Head recommended that an appeal be filed under Section 260A of the Act; that the said report was forwarded to the Chief Commissioner of Income Tax (International Taxation),

West Zone, Mumbai for approval; and that the said authority thereafter granted approval to file the Appeal. It is further stated that the office of the Applicant had shifted from Nariman Point to Bandra Kurla Complex, as a result of which the relevant records were not readily available and tracing them took some time, and that some time also went in obtaining the requisite court fee challan. It is contended that the delay in filing the Appeal is majorly on account of procedural formalities and the shifting of office. The Appeal was filed on 25th August 2025, beyond the period of 120 days prescribed under Section 260A(2)(a) of the Act from the receipt of the Impugned Order, and the delay is stated to be about 124 days. The Applicant submits that it has a good case on merits; that grave harm would be caused to the Applicant by way of loss of revenue if the delay is not condoned; and that no prejudice would be caused to the Respondent if the delay is condoned. The Applicant has also undertaken to pay such sums by way of damages or costs as this Court may award.

3. Mr Atul Jasani learned Counsel for the Respondent opposes the application and his submission is taken on record.

4. Having considered the rival contentions and the pleadings on record, it is well settled that in matters of condonation of delay, a justice-oriented and liberal approach is ordinarily adopted, particularly where the delay is not of such magnitude as to indicate deliberate or mala fide conduct, and where refusal to condone the delay would result in a meritorious cause being shut out without adjudication on merits a consequence ordinarily graver than any prejudice that may be occasioned to the opposite side, which can, in most cases, be

compensated in costs. It is not shown that any irreversible or irreparable prejudice would be caused to the Respondents if the delay is condoned.

5. In **Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai**,[1] the Supreme Court opined that a distinction must be made between a case where the delay is inordinate and a case where the delay is of few days and whereas in the former case the consideration of prejudice to the other side will be a relevant factor, in the latter case no such consideration arises. Thereafter, the two-Judge Bench ruled thus:-

> "18. What needs to be emphasized is that even though a liberal and justice-oriented approach is required to be adopted in the exercise of power under Section 5 of the Limitation Act and other similar statutes, the courts can neither become oblivious of the fact that the successful litigant has acquired certain rights on the basis of the judgment under challenge and a lot of time is consumed at various stages of litigation apart from the cost. What colour the expression "sufficient cause" would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay."

6. The Supreme Court in **Shivamma (Dead) By LRs v. Karnataka Housing Board & Ors.**[2] has held that:

> "115. However, as is manifest from the entire discussion above, for the purpose of condonation of delay in terms of Section 5 of the Limitation Act, the delay has to be explained by establishing the existence of "sufficient cause" for the entirety of the period from when the limitation began till the actual date of filing. In other words, if the period of limitation is 90-days, and the appeal is filed belatedly on the 100th day, then explanation has to be given for the entire 100-days."

7. Applying the above principle to the present case, we find that the Applicant has attributed the delay to the procedural formalities involved in filing the Appeal,

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1 Civil Appeal No. 2970-2971/2012 dated 9th April 2012

2 2025 INSC 1104

namely the preparation and approval of the scrutiny report, the shifting of its office and the consequent tracing of records, and the time taken in obtaining the requisite court fee challan. The Impugned Order was received on 24th December 2024, and the Appeal was filed on 25th August 2025, resulting in a delay of 124 days.

8. We have perused the averments made in the application. Considering the period of delay, the explanation offered by the Applicant and the settled principles of law governing applications for condonation of delay, in our opinion, it is appropriate that the delay is condoned.

9. The Application is accordingly allowed in terms of prayer clause (a).

10. Office objections, if any, be removed within a period of eight weeks from today.

11. List the Appeal for admission after the removal of office objections.

12. Interim Application stands disposed of in the aforesaid terms. No costs.

(DR. NEELA GOKHALE, J) **(G. S. KULKARNI, J.)**