IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

CMP No.16857 of 2025 in
CMP(M) No.1219 of 2025

Reserved on: 30.09.2026

Date of Decision: 27.10.2026

Uploaded on 27.10.2026

IFFCO Tokio General Insurance Company Limited

....Applicant-appellant

Versus

Geeta and others

…Respondents

Coram

Hon'ble Mr. Justice Sushil Kukreja, Judge

Whether approved for reporting?[1] *Yes*

For applicant/appellant: Ms. Shradha Karol, Advocate.

For the respondents : Mr. Rahul Mahajan, Advocate, for respondents No.1 to 8.

Mr. Anirudh Sharma, Advocate, for respondents No.9 & 10.

Sushil Kukreja, Judge

The instant application has been filed by the applicant/appellant, under Rule 7 of Chapter 6-C of the High Court of Himachal Pradesh (Appellate Side) Rules, 1997, for refiling the appeal after removal of the objections. It has been averred in the application that the appeal could not be

1 Whether reporters of Local Papers may be allowed to see the judgment?

registered as the Registry had raised certain objections. When the matter could not be listed, inquiry was made by the counsel for the applicant/appellant and it was transpired that the matter was lying under objections and objections compliance date was 29.12.2023. The counsel for the applicant-appellant removed the objections from time to time when the Registry raised the same and finally the objections were removed on 14.08.2024 by the clerk of the counsel for the applicant. Thereafter, the clerk of the counsel had left the office and the counsel remained under the *bona fide* impression that the matter will be listed before the Court on its turn, but when the same could not be listed, then on 01.07.2025, the present clerk of the counsel inquired about the status of the aforesaid case and found that the same was lying under objections. Thereafter, the objections were removed immediately by the clerk and filed the appeal without any further delay. However, in the entire process, the delay of one year, six months and eleven days had occurred in re-filing the appeal, which was not intentional or willful, but owing to the above-narrated facts and

circumstances. Therefore, by means of the present application, it has been prayed that the delay in refiling and removing the objections within the stipulated time may be condoned in the interest of justice.

2. In the reply, respondents No.1 to 8 raised preliminary objection qua maintainability as no affidavit has been filed in support of the application. On merits, it is averred that the appeal was intentionally and deliberately not filed after removal of the objections and the averments made in the application are totally wrong, false and baseless. It has further been averred in the reply that no sufficient reasons and cause have been given for condoning the delay in refiling the appeal after removing objections. Therefore, it is prayed that the application may be dismissed.

3. Respondents No.9 and 10 also filed reply to the instant application, wherein it is averred that the applicant has failed to disclose any sufficient reasons for condonation of delay in refiling the appeal. It is also averred that after receiving the file on 05.12.2023, no explanation has been given for the delay, hence, the story is nothing but an excuse

to defeat the period of limitation. It has also been averred on behalf of the replying respondents that the application is not supported by the affidavit of the counsel verifying the fact that in fact the file was mixed-up.

4. I have learned counsel for the parties and also carefully gone through the material available on record.

5. It is an admitted fact that there is a delay of one year, six months and eleven days in refiling the appeal. As per Rule 8 in Chapter 2 of High Court of Himachal Pradesh (Scrutiny, Maintenance of Judicial Records, Administrative and Executive Business) Rules, 1997, the maximum period for removal of objections is 7 days at a time and 20 days in aggregate; and in case the objections were not removed within this maximum period of 20 days, the matter should be dealt with in accordance with Rule 7 of Chapter 6(c) of the High Court of Himachal Pradesh Appellate Side and Original Side Rules, 1997.

6. The said Rule states that if the period taken by the concerned party for removal of objections exceeds the time limit specified (7 days at that time and 20 days in

aggregate), the Registry shall not accept the papers unless the delay in removal of such objections is condoned on an application by the party.

7. As per Chapter-4 of the H.P. High Court Rules and Orders Appellate Side, the Registrar is delegated with the power to condone delay in removing objections raised by the Registry, to the papers presented in the Registry, up to a period of 4 months in aggregate only; and if the aggregate delay exceeds four months, application for condonation of delay must be placed before a Judge of the High Court.

8. In the instant case, the reasons for not refiling the appeal within the stipulated period is that the objections were initially removed on 14.08.2024 by the clerk of the counsel for the applicant and thereafter, the clerk of the counsel had left the office and the counsel remained under the bona fide impression that the matter would be listed before the Court on its turn, but when the same could not be listed, then on 01.07.2025, the present clerk of the counsel inquired about the status of the aforesaid case and found that the same was lying under objections. This explanation is nothing but shows

the negligent act on part of applicant, which cannot be considered a good ground for condonation of delay. It is clear that applicant has not specifically stated the facts indicating sufficient cause for not refiling the appeal within the prescribed period of limitation The applicant would have to satisfy this Court that it had pursued the matter diligently and the delay was beyond its control and was unavoidable. Neither affidavit of the counsel, nor the affidavit of the applicant/insurance company has been filed in support of the averments made in the application. Application is devoid of material particulars. A cryptic application has been filed by taking a vague plea for condonation of delay in re-filing of the appeal, which does not contain sufficient cause or reason for condonation of delay,

9. In the case titled as ***Brij Mohan vs. Sunita***, ***MAT Appeal No.21/2009,*** *decided on January 13, 2010*, while dealing with the condonation of delay in refiling and discussing the expression "sufficient cause" the High Court of Delhi has clearly held that the court cannot mechanically condone the delay in refiling the appeal, if no reasonable

ground is shown at all. In ***Asha Sharma and others v. Sanimiya Vanijiya P.Ltd., 2009 SCC Online Del 2692***, it has been observed that the Rules framed by the High Court with regard to re-filing, cannot be allowed to be taken so casually and there will be no sanctity behind the rules if every delay in re-filing, is to be condoned irrespective of howsoever unreasonably long and unexplained it be, and howsoever mandatory be the nature of the documents, non-filing of which renders the proceedings defective. It has been observed as under:-

> *"23. It is trite law that Rules of Procedure being hand-mades of justice, a party should not be refused relief merely because of some mistakes, negligence or inadvertence. Rules of Procedure are designed to facilitate justice and further its ends. But, even if we take a rather liberal approach in this matter, we are unable to find any good ground for condonation of delay in filing this appeal. None of the reasons given in the application is convincing or logical. The impression we gather is that the appellants deliberately delayed filing of the appeal so as to prolong the litigation. It cannot be said that even if the appellants were totally negligent and careless and have not come forward with any worthwhile explanation for the delay, the court ought to condone the delay in re-filing. The Rules framed by the High Court cannot be allowed to be taken so casually and there will be no sanctity behind the rules if every delay in re- filing, is to be condoned irrespective of howsoever unreasonably long and unexplained it be, and howsoever mandatory be the nature of the documents, non-filing of which renders the Appeal defective. We cannot condone the delay merely because an application for condonation of*

> *delay has been filed. No court would not like to reject an appeal as time-barred unless there are strong reasons, which compel the court to take such a view. Some indulgence and a liberal view in such matters is well-accepted but to say that the court has no option in the matter and must accept the Memorandum of Appeal irrespective of the nature of the objections and delay in re- filing, even where there is no reasonable explanation to justify the delay, would only be travesty of justice and will be as good as removing the relevant Rule in High Court Rules and Orders, from the Statute Book.*

10. From the above discussion, it is apparent that it is for the applicant to explain the cogent and satisfactory reasons of delay in re-filing. In the present case, there has been an inordinate delay of one year, six months and eleven days in refiling and in my view, the applicant has not been able to offer any satisfactory explanation with regard to the same.

11. In view of the above discussion, the present application, being devoid of merits is dismissed. Consequently, CMP(M) No.1219 of 2025, alongwith the main appeal (FAOST/33056/2023), is also dismissed.

Pending miscellaneous application(s), if any, shall also stand disposed of.

(Sushil Kukreja)
Judge

October 27, 2026
(*V. Himalvi)*