

Filing No.: CMA/154/2025
Filed On: 15/04/2025
Decided On : 26/05/2026
Duration: 1Y-1M-11D

**IN THE COURT OF PRINCIPAL DISTRICT JUDGE,
AT BHARUCH**
Civil Misc. Application (Condonation of Delay) No.154/2025

Exh. ____

Applicant: M/s Gujarat Fluro Chemicals Ltd.
Registered Office At. Survey No.16/3, 26-27,
Ranjit Nagar, Ta. Ghoghambla,
Dist. Panchmahal - 349390.

V/s.

Opponent: Mr. Binaya Kumar Debate,
R/o. L-373, Baramunda Housing Complex,
Near Fire Station, Baramunda,
Bhubaneshwar -751003, Odisha.

Appearance:
Ld. Advocate Mr. A. V. Khambhata, for the applicant.
Ld. Advocate Mr. P. H. Thakar, for the opponent.

An application U/s. 5 of The Indian Limitation Act, 1963.

JUDGMENT

1. The applicant has preferred the present application u/s.5 of the Limitation Act, 1963, praying for condonation of delay of 64 days occurred in preferring the regular civil appeal.
2. Learned Advocate for the applicant has submitted that, the applicant intend to challenge the judgment and decree dated 05.02.2025 passed by learned trial court in Special

Civil Suit (New) No.76/2019. He has further submitted that, the trial court passed the judgment on 05.02.2025 and applicant should have filed the appeal within the period of 30 days, however, applicant was under impression that considering the amount involved in the suit, appeal would lie before the Hon'ble Gujarat High Court to be filed within 90 days. It is also submitted that subsequently, applicant came to know that considering the amount involved, pecuniary jurisdiction for filing the first appeal lies before the District Court, Bharuch. Therefore, due to the misunderstanding of pecuniary jurisdiction to prefer an appeal before the appropriate Court, applicant could not file the appeal within the statutory period. It is submitted that applicant has a strong case and if the appeal is not decided on merits by condoning the delay, applicant will suffer irreparable financial loss. Therefore, there is no willful delay on the part of the applicants and if the delay is condoned, no prejudice would be caused to the other side. Hence, he has submitted that, to do substantial justice present application may be allowed.

3. Notice was issued to the opponent and opponent has remained present through his advocate and filed reply at **Exh.10** contending that, there is no sufficient cause shown for delay in filing the regular civil appeal. It is stated that applicant has received the copy of judgment on 01.03.2025, however, filed appeal with a delay under the

pretext of misunderstanding which is gross negligence of applicant. It is stated that ignorance of law i.e. pecuniary jurisdiction of Court is not a valid ground for condoning the delay. The learned Advocate for the opponent has submitted that the reasons stated for the delay in filing the regular civil appeal are not tenable. Hence, the application deserves to be dismissed.

4. Heard learned advocates for the parties and perused the application. As per the applicants, there is a delay of 64 days in filing regular civil appeal. From the averments made in the application, it appears that due to misunderstanding regarding the pecuniary jurisdiction of the appellate Court, applicant could not file appeal in time. The legislature has conferred power to condone the delay by enacting Section 5 of the Limitation Act, 1963, in order to enable the Courts to do substantial justice to parties by disposing of matters on “merits”. The expression “sufficient cause” employed by the legislature is adequately elastic to enable the Court to apply the law in a meaningful manner which sub-serves the ends of justice that being the life-purpose for the existence of the institution of Courts.
5. It is fruitful to refer the decision of the Hon’ble Apex Court in the case of **Collector, Land Acquisition, Anantnag v. Katiji** reported in 1987 (2) SCC 107. In the

said decision, the Hon'ble Apex Court has held in **para-3** as under:

3. *"The legislature has conferred the power to condone delay by enacting Section 5 of the Indian Limitation Act of 1963 in order to enable the Courts to do substantial justice to parties by disposing of matters on 'merits'. The expression "sufficient cause" employed by the legislature is adequately elastic to enable the courts to apply the law in a meaningful manner which subserves the ends of justice that being the life-purpose for the existence of the institution of Courts. It is common knowledge that this Court has been making a justifiably liberal approach in matters instituted in this Court. But the message does not appear to have percolated down to all the other Courts in the hierarchy. And such a liberal approach is adopted on principle as it is realized that:-*
 1. *Ordinarily a litigant does not stand to benefit by lodging an appeal late.*
 2. *Refusing to condone delay can result in a meritorious matter being thrown out at the very threshold and cause of justice being defeated. As against this when delay is condoned the highest that can happen is that a cause would be decided on merits after hearing the parties.*
 3. *"Every day's delay must be explained" does not mean that a pedantic approach should be made. Why not every hour's delay, every second's delay? The doctrine must be applied in a rational common sense pragmatic manner.*
 4. *When substantial justice and technical considerations are pitted against each other, cause of substantial justice deserves to be preferred for the other side cannot claim to have vested right in injustice being done because of a non-deliberate delay.*
 5. *There is no presumption that delay is occasioned deliberately, or on account of culpable negligence, or on account of mala fides. A litigant does not stand to benefit by resorting to delay. In fact he runs a serious risk.*
 6. *It must be grasped that judiciary is respected not on account of its power to legalize injustice on technical grounds but because it is capable of removing injustice and is expected to do so."*

6. Therefore, in view of the settled legal position of law, when substantial justice and technical consideration are pitted against each other, cause of substantial justice deserves to be preferred. Hence, considering the facts and circumstance of the case and sufficient cause being shown by the applicant, the present application is required to be allowed. Hence, the following final order is passed :-

ORDER

1. This application is hereby allowed.
2. The delay caused in preferring Regular Civil Appeal against the judgment and decree dated 05.02.2025 passed by the learned Principal Senior Civil Judge, Vagra in Special Civil Suit (New) No.76/2019 is hereby condoned.
3. The Registry is directed to admit the regular civil appeal after proper verification.

Signed & Pronounced in the open Court today on 26th May, 2026.

Date: 26/05/2026

(R. K. Desai)
Principal District Judge,
Bharuch
Code No.GJ00912