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**IN THE COURT OF THE 4th ADDITIONAL DISTRICT
JUDGE, VISAVADAR**

C.M.A. No.30/2025

Exh. :-.....

APPLICANT :

State Bank of India

Branch Ranpur,

Tal. Bhesan, District Junagadh.

VERSUS

OPPONENT:

Hardasbhai Gordhanbhai Monpara

R/o. Ranpur,

Tal. Bhesan, District Junagadh.

Name of Ld. Advocate	Appearance for
Mr.D.M.Shah	Ld. Advocate for the Applicant.
Mr.H.S.Hirani	Ld. Advocate for the Opponent.

**Subject : An application for condonation of delay of 811
days occurred in filing an appeal.**

: J U D G M E N T :-**The brief facts of the present application are as follows:-**

1. The applicant has preferred this application to condone the delay in filing an appeal against the Judgment and Decree passed in Regular Civil Suit No.6/2022, dated 30/09/2023, by the Ld. Principal Civil Judge, Bhesan.
2. The applicant has filed the present application seeking condonation of a delay of 811 days in filing the appeal against the Judgment and Decree dated 30/09/2023. It is stated that the opponent had taken a KCC loan of Rs. 2,18,000/-. As the said loan account became N.P.A., the applicant bank issued a notice to the opponent. However, since the opponent failed to repay the amount despite service of notice, the applicant bank filed a suit for recovery of Rs. 2,57,643/-. It is further stated that in order to prove its case, the plaintiff bank produced the affidavit of its representative. However, thereafter, due to official government work, the manager of the applicant bank could not remain present before the Court and consequently the right of the plaintiff bank to produce further evidence came to be closed. The defendant and his advocate also did not remain present and therefore the right of the defendant to lead evidence was also closed. In the absence of evidence from both sides, the suit came to be decided on 30/09/2023. It is further stated that the suit was dismissed without giving a proper opportunity to the

applicant bank. The applicant bank came to know about the said judgment in November-2025. Thereafter, the bank contacted its advocate and applied for certified copies of the judgment and decree, which were received on 11/12/2025. Thus, a delay of 811 days occurred in filing the present appeal. It is further stated that there is neither any fault nor negligence on the part of the applicant in causing the said delay. It is also stated that the officer who had originally instituted the suit had been transferred and therefore the present officer was unaware of the facts of the case, which resulted in the delay. The delay is stated to be bona fide. Hence, the applicant has prayed to allow the present application.

3. Notice of the present application was served upon the opponent, who appeared through his Ld. Advocate and filed written objection vide Exh.7 and stated that earlier the applicant had filed an appeal before this Hon'ble Court along with an application for condonation of delay dated 05/04/2024, seeking to condone a delay of 19 months and 20 days. However, due to a serious error in calculating the period of delay, the Court permitted them only to make a correction for delay in the application. Instead of making the limited correction, the applicant allegedly attempted to mislead the Court by making changes in the original civil miscellaneous application itself, which shows their mala fide intention. It is stated that that the applicant bank had earlier filed a civil suit before the Civil Court, Bhesan, claiming that the

opponents had taken a KCC loan of Rs. 2,18,000/-, after receiving summons, the opponents appeared through their advocate and filed their defence stating that they had never taken any such loan and that the bank had not produced any documentary proof regarding the loan, guarantee, or renewal within the prescribed time. It is stated that the bank only filed an affidavit but did not step into the witness box to prove its claim, nor did the bank or its advocate remain present during the proceedings and Ld. Trial Court, after hearing the defendant's advocate, dismissed the suit. It is further stated that the bank is an experienced institution that regularly files cases and cannot claim ignorance due to transfer of an officer, as all records remain with the bank and its advocate. It is further stated that the delay of about 811 days clearly shows negligence on the part of the applicant and that the law assists vigilant persons, not those who sleep over their rights. Therefore, the opponents pray that the present application for condonation of delay be rejected with costs.

4. Ld. Advocate for the applicant mostly argued as per the Exh 1 and further argued that the delay of 812 days was caused as the applicant was not informed about the matter by its Ld. advocate.
5. On the other side Ld. Advocate for the opponent has argued as per the written reply Exh.7 and further argued that bank is a government institution which functions in accordance with

the law. In paragraph 4, it is stated that after the employee of the plaintiff bank had given his affidavit in chief, no further steps were taken, and therefore the bank was well aware that the case was pending before the Court. If the order of the Hon'ble Court is considered, paragraph 8 of the judgment clearly shows that the right of the plaintiff to make arguments was also closed. It is further submitted that before filing the present delay application, the applicant had already filed Civil Miscellaneous Application No. 4/2024 and even made corrections in the prayer of that application. It is further argued that no satisfactory or sufficient reason for the delay has been shown in the present application. Hence prayed to reject the present application. Ld. Advocate for the opponent has relied on following case law.

- a. P.K.Ramchandran Vs. State of Kerela, reported in AIR 1998 Supreme Court 2276.

6. I have heard Ld. advocates for the parties.
7. According to provisions of the Limitation Act, the Court has to keep in mind that discretion given by the Statute has to be exercised to advance substantial justice. Thus, what is required by law is that the delay must be satisfactorily explained. Moreover, the Hon'ble Supreme Court and High Court have time and again emphatically held that on the point of condonation of delay whenever there is a delay, be it for a few days or gross in filing Revision or an Appeal where substantial justice is found to

be pitted against the technical justice, the same is ordinarily and as a matter of course in the overall interest of justice, is required to be condoned. The court should see that, as far as possible, the cases should be decided on the merits rather than throwing them on technical grounds of delay. It is also well settled that in condoning delay, a liberal approach should be taken.

8. Considering the settled principles of law related to condonation of delay, here in the present case at hand, as per the case of the present applicant, the delay has been caused in filing an Appeal because of the reasons stated above. The impugned Judgment and Decree were passed on 30/09/2023. It is the case of the applicant that the delay has occurred due to non-communication from the advocate and the officer who had earlier handled the matter was transferred and the present officer was unaware of the facts of the case, hence there was a delay in filing the appeal. The present applicant had earlier filed C.M.A. No. 04/2024 on 21/05/2024 seeking condonation of delay in filing a Civil Miscellaneous Application against the order dated 30/09/2023 passed in R.C.S. No. 6/2022. Thus, it clearly reveals that the applicant was well aware of the impugned order at least on 25/04/2024, when he preferred the said C.M.A. No. 04/2024, as the said application itself was filed challenging the very same order. However, in the present application, the applicant has stated that he came to know about the impugned order only in November-2025. Such a statement is contrary to the record and the earlier proceedings initiated by the applicant

himself. Hence, it appears that the applicant has stated incorrect facts in the present application and has attempted to mislead this Court. On the basis of such incorrect and misleading averments, the applicant has prayed for condonation of delay.

9. The Hon'ble Supreme Court of India has in the case **Ms/Dehri Rohtas Light Railway Company Ltd. Vs. District Board, Bhojpur & Ors**, reported in (1992) 2 SCC 598 has observed that the real test to determine the delay is that the petitioner should come to Court before a parallel right is created and that lapse of time is not attributable to any laches or negligence.
10. I would like to keep in mind the legal position to decide the delay condonation application. As decided by the Hon'ble Gujarat High Court in the case of **Mahendrabhai Nagjibhai Patel V. Ilaben Mahendrabhai Patel, reported in 2005(2) GLH- 150** and also in so many cases by the Hon'ble High Courts as well as Apex Court have held that while deciding the delay application a liberal and pragmatic approach should be adopted by the Court and if there is no inconvenience or prejudice caused to the other side, the application should not be rejected by the Court. It is always desirable to decide the issue on merit.
11. Here, in the present case the applicant has stated reason for delay as non-communication from his advocate but looking to the ratio laid down in case of **Surendra**

Bajranglal versus Bugani Surendra (Criminal Revision Application No. 286 of 2025 decided on 3rd March 2025), the Rajasthan High Court specifically observed that the petitioner was not informed by his Council could not be a valid excuse and delay cannot be condoned on that ground. It is further held that faces like liberal approach, justice-oriented approach, and Cause for the advancement of substantial justice, cannot be employed to defeat the law of limitation to allow tall matter or as a matter of fact did matters to be reviewed and reopened, but taking aid of Section 5 of the Limitation Act. Therefore, delay cannot be condoned on the ground of non-communication of the judgment.

12. Further in support of his argument, Ld. advocate for the opponent relied upon the judgment of **P.K. Ramchandran Vs. State of Kerala**. AIR 1998 Supreme Court 2276, Considering this judgment this Court also has reason to disallow the present application as the applicant has not explained reasonable or satisfactory reason for the delay.
13. Therefore, In the case of **Ajay Dabra versus Pyare Ram** reported in 2023 AIR Supreme Court 698, the honorable Supreme Court held that the applicant must explain the delay of each day. In this judgment, the Honorable Supreme Court also cited the judgment of Mahant Bikaram Das Chela versus Financial Commissioner, Revenue Punjab Chandigarh and others reported in 1977 (4) SCC 69, wherein it has been held that,

“21. Section 5 of the Limitation Act is a hard stick Master, and judicial interpretation has encased it within a narrow compass. A large measure of case law has grown around Section 5, its highlights being that one or not easily take away a right which has accrued to a party by lapse of time, and that therefore a Litigant who is not vigilant about his right must explain every day's delay.”

14. Considering this judgment also, this court has no reason to allow the present application as no reason for delay is satisfactorily explained by the applicant.

15. Honorable Supreme Court makes it clear in the case of **State of Madhya Pradesh versus Ramkumar Choudhary** (Special Leave Petition © Diary No. 48636 of 2024 decided on 29th November 2024) that the Party seeking condonation has to explain why it was unable to institute the proceeding within that period of limitation. What events occurred on the next day of the period of limitation till the last is of no consequence. The court is required to consider what came in the way of the party that it was unable to file it between the first day and the last date of the limitation. It is true that a party is entitled to wait until the last day of limitation for filing an appeal. But when it allows the limitation to expire and pleads sufficient cause for not filing the appeal earlier, sufficient cause must be established that, because of some event or circumstances

arising before the limitation expired, it was not possible to file the appeal within time. No event or circumstances arising after the expiry of the limitation can constitute such sufficient cause. There may be events or circumstances subsequent to the expiry of the limitation that may further delay the filing of the appeal. But that the limitation has been allowed to expire without the appeal being filed must be traced to a cause arising within the period of limitation. (see the judgment of Ajit Singh Thakur Singh vs State of Gujarat, AIR 1981 Supreme Court 133.)

16. Honorable Supreme Court in the case of **Majji Sannemma @ Sanyasi Rao versus Reddy Sridevi** reported in 2022 AIR Supreme Court 332, and in the case of **Estate Officer Haryana Urban Development Authority versus Gopichand**, reported in 2019 (4) SCC 612, disallowed the huge delay of 101 days or 1942 days respectively. Here in this case before me also, the present application of condonation of delay is for 811 days. Therefore, considering the ratio of these two judgments of the Hon'ble Supreme Court, the present application is liable to be disallowed. In the case of **Bihari versus the State of UP** reported in 2021 (11) Scale 320, the Hon'ble Supreme Court disallowed the application for condonation of the delay of 6 years, as no sufficient cause has been shown.
17. Same way, in the case of **Shree R Kunwarji company versus Trustee of Haji Nazar Ali Kasambhai Trust Fund**, reported

in 2024 (3) GLR 1914 Volume 65 (3), the honorable Gujarat High Court also disallowed an application for condonation of a huge delay of 1557 days, as sufficient cause was not shown by the applicant.

18. In the case of **Balwant Singh versus Jagdish Singh** reported in 2010 (8) Supreme Court Cases 685 Honorable Supreme Court observed that it is necessary to balance liberal interpretation and the rights of the parties. It is held that even if sufficient cause has to receive liberal construction, it must squarely fall within the concept of reasonable time and proper conduct of the party concerned. Liberal construction cannot be equated with doing injustice to the other party. Sufficient cause implies the presence of legal and adequate reason. To judge whether or not a cause is sufficient is to see whether it could have been avoided by the party by exercising due care and attention. In a similar case, Relying upon the said judgment of Balwant Singh (Supra) Honorable Gujarat High Court in the case of **Sankalchand Jaychand Patel versus Amrutben Mangaji** (Special Civil Application No.7015 of 2011 dated 15 July 2022) confirm the order of the Ld. trial court by observing that the petitioner was well aware of the fact that his suit had been dismissed in the year 2007.

19. In the case of **Suryakant Bhikhabai Hakani versus Bombay Mercantile Co-operative Bank Limited**, reported in 2012 (2) GLH 170, it is held by the Honorable Gujarat High Court

that it is presumed that the lawyer was aware about day to day proceedings before the court.

20. In the case of **Samsunnisa Begum versus Vishnu Kumar Ambelal Patel**, reported in 2012 (3) GLR 2565, the Honorable Gujarat High Court held that the delay was long and inordinate, the party was not vigilant, and did not show seriousness in pursuing the suit. An affidavit by an advocate of the plaintiff accepting blame upon himself for the delay is no ground to condonation of the delay. It was further held that long and inordinate delay cannot be condoned casually and without sufficient cause being shown.
21. In the case of **Union of India versus Jahangir Beramji Jeejeebhoy** reported in 2024- 2- GLH 217, the Honorable Supreme Court held that the length of delay is a relevant matter. It is made clear that once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long time, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. In this judgment, it was made clear that rendering substantial justice is not to cause prejudice to the opposite party.
22. In the case of **Kaushal versus Bal Krishnareported** in AIR 1981 Supreme Court 1921, it has been held that a strong case on merit cannot be a ground for condonation of delay if no cause is shown for condonation of delay.

23. Here, in the present case before this Court, as discussed hereinabove, the applicant is a banking institution which is expected to be well aware of the prevailing legal procedures and rules. Therefore, the contention that the delay has occurred due to non-communication from its advocate cannot be readily accepted. Being a statutory financial institution, the applicant is expected to maintain proper record of its litigations and to remain vigilant regarding the progress of the cases filed on its behalf. Moreover, the ground that the concerned officer was transferred and the present officer was unaware of the facts of the case also cannot be considered a sufficient cause, as institutional litigants like banks have an established administrative mechanism and records through which the status of pending litigations can easily be ascertained. Hence, such reasons do not satisfactorily explain the inordinate delay caused in filing the appeal. In these circumstances, the submission of the applicant that his advocate has not communicated the outcome of the suit cannot be accepted.

24. Considering the facts and circumstances of the case and the inordinate delay caused in filing the appeal, and in view of the absence of any satisfactory or sufficient explanation for such delay, and further looking to the conduct of the applicant and the incorrect statement made before this Court, this Court is not inclined to exercise its discretionary powers in favour of the applicant for condonation of delay. Hence, the following final order is

passed:

-:: ORDER ::-

The present application is hereby disallowed with no order as to cost.

Signed and pronounced in the open Court, today on **this 06th day of March, 2026.**

Place: Visavadar.
Date :17/03/2026

(Hetalkumar Vinodray Joshi)
4th Additional District Judge,
Visavadar,
UID No.GJ00599.