

ORDER BELOW EXH. 1
IN
C.M.A. NO. 10/2025

1. The present applicant has filed this application for condonation of delay.

2. The brief facts of the application are as under:

That the plaintiff has filed Civil suit bearing No.27/2016 which was dismissed for default by the Court on 25/06/2024 pursuant to failure of plaintiff's appearance before the Court. The applicant submits that as per rules, in order to restore his suit, he has to file restoration application within 30 days but he failed to do so erroneously and in larger interest of justice, he has prayed to condone the delay.

3. On admission of the present application for condonation of delay, notice was duly served to the opponents. On service of notice, the opponents appeared through learned advocate Mr. S. D. Pandya vide Exh.12 and filed written statement at Exh. 13.

4. Heard learned advocates for both the parties. Gone through the proceedings. I have also heard the learned advocate for the opponents, who has objected this application for restoration.

5. The primary function of the Court is to adjudicate the dispute between the parties and to advance substantial justice. The time limit fixed for approaching the Court in different situation is not, because on the expiry of such time, a bad cause would transfer into a good cause. Rules of limitation are not meant to destroy the rights of the parties. They are meant to see that parties do not resort to dilatory tactics, but seek their remedy promptly. The object of providing a legal remedy is to repair the

damage caused by reason of legal injury. The Law of Limitation is thus founded on public policy. Condonation of delay is a matter of discretion of the Court. Section 5 of the Limitation Act does not say that such discretion can be exercised only, if the delay is within the certain limit. Length of delay is not matter, acceptability of the explanation is the only criteria. In every case of delay, there can be same lapse on the part of the litigant concerned. That alone is not enough to turn down his plea and to shut the door against him. The words “sufficient means” under Section 5 of the Limitation Act should receive a liberal construction so as to advance substantial justice. The Court should be ordinarily lenient and liberal in determining the sufficiency or reasonability of ground for condonation so as to see that no meritorious matter is thrown away on a technical plea of delay.

6. The delay occurred in this case is 7 Months 15 Days. Moreover, having regard to the peculiar facts and circumstances of the case, the explanation is acceptable and as per the opinion of this Court, this is a very fit case where the delay should be condoned, because by condoning the delay, the applicant does not stand to benefit and refusing to condone the delay is likely to result a meritorious matter being thrown down whereby cause of justice is likely to be defeated. By condoning the delay, the highest that can happen is that the case be decided on merits after hearing the parties. In this particular case, the satisfactory explanation is there and therefore, on overall discussion & reasons as stated above, this application deserves to be allowed. Hence, I pass the following order in the interest of justice.

:: ORDER ::

1. The application is allowed.
2. The delay caused in filing the restoration application is hereby condoned, subject to the condition that the matter shall be proceeded with on a day-to-day basis.
3. The restoration application be numbered and registered accordingly.
4. No order as to costs.

Signed and Pronounced in Open Court today, on 24th day of June, 2026.

Date : 24/06/2026
Place : Prantij

(I. M. Shaikh)
Principal Senior Civil Judge
Sabarkantha at Prantij
(Judge Code No. GJ01485)

KJP