



HIGH COURT OF CHHATTISGARH AT BILASPUR

ARBA No. 5 of 2025

Patil Constrction and Infrastructure Limited **versus** Union of India through
the Secretary

ARBA/6/2025, ARBA/7/2025 & ARBA/4/2025

Order Sheet

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| 02/02/2026 | <p>Mr. Angad Mehta, Advocate appears through VC along with Mr. Aman Saxena, counsel for the appellant(s).</p> <p>Mr. Atanu Ghosh, Deputy GA, Mr. Kanhaiya Yadav, PL for the State.</p> <p>Mr. Ramakant Mishra, DSGI for Union of India.</p> <p>The matter is listed for hearing on IA Nos.01/2025, applications for condonation of delay in filing the appeals.</p> <p>Learned counsel for the appellant submits that the limitation period for filing the appeal against the order of the lower court is 90 days as per Art. 116 of the Schedule of Limitation Act and as per judgment of the Hon'ble Supreme Court in <i>Govt. of Maharashtra (Water Resources Department) Represented by Executive Engineer Vs. Borse Brothers Engineers and Contractors Pvt. Ltd., (2021) 6 SCC 460</i>, the arbitration appeals u/s 37 of the Arbitration Act have 90 days as limitation period as against 60 days provided u/s 13 of the Commercial Courts Act as Arbitration Act is a special legislation. However, Section 5 of the Limitation Act affords an opportunity to the appellant to seek condonation of delay if the</p> |

Court is satisfied with the sufficiency of the cause as observed by the Hon'ble Supreme Court. He submits that the appellant had approached this Court on 11.12.2024 which was within the period of limitation, however, as there were some defects in the appeals, as per rules, the matter stood rejected and the date of re-filing of the matter after removal of such defects is considered as the date of filing for calculating the delay whereas in case of physical filing, the date of filing itself is considered for calculating the delay in filing such appeals.

Learned counsel further submits that soon after filing the appeals, there was winter holidays from 21.12.2024 to 2.1.2025. Upon reopening of the Court, the appellant sought to remove the defects pointed out by the Registry but it was notified to the appellant that the matter stands rejected and fresh filing needs to be made. Lastly, he submits that whatever number of days that the Registry finally calculates as delay in filing the appeals may kindly be condoned to advance the cause of justice.

Opposing the contention of the appellant, learned counsel for the respondent/UOI submits that in the matter of **Ramlal Vs. Rewa Coalfields Ltd., AIR 1962 SC 361**, the Hon'ble Supreme Court observed that merely because sufficient cause has been made out in the facts of the case, there is no right to the appellant to have delay condoned. Further, in the matter of **Borse Brother Engineers and Contractors Pvt. Ltd.** (supra), the Hon'ble Supreme Court while deciding the condonation of delay observed in para 63 as under:

"63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under section 37 of the Arbitration Act that are governed by Articles

116 and 117 of the Limitation Act or section 13(1A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches.”

He submits that in view of the aforesaid submission, the applications for condonation of delay is liable to be rejected.

Heard learned counsel for the respective parties. In the present cases, it is not in dispute that the appellant had initially approached this Court on 11.12.2024, which was within the prescribed period of limitation. The appeals could not be registered on account of certain defects pointed out by the Registry and were thereafter treated as rejected in terms of procedural rules applicable to electronic filing. The delay, therefore, does not arise from inaction or abandonment of the remedy, but from procedural defects and the manner of refiling, which stands on a different footing than a case of total silence or unexplained delay.

The discretion to condone delay survives, though it must be exercised sparingly and on sufficient cause, as reiterated by the Hon'ble Supreme Court in *Borse Brothers Engineers & Contractors Pvt. Ltd. v. Union of India* (supra). At the same time, the law does not mandate a mechanical

rejection of every application for condonation merely because the delay occurs in a commercial or arbitration matter. The test remains whether the appellant has acted bona fide, without gross negligence or deliberate inaction, and whether the delay is such as to defeat the very object of speedy justice.

In the totality of facts and circumstances case and considering the rival submission of the parties, we are of the opinion that present is a fit cases for condoning the delay pointed out by the Registry in filing of these appeals. Accordingly, the applications (IA Nos.1) stand allowed and delay in filing the appeals is hereby condoned.

List these appeals for hearing on admission on **17th February, 2026.**

Sd/-

(Rajani Dubey)
Judge

Sd/-

(Radhakishan Agrawal)
Judge