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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision : 06.04.2026

+ RFA(OS)(COMM) 4/2026 & CM APPL. 6378/2026, CM APPL. 6379/2026, CM APPL. 6380/2026

JAIN IRRIGATION SYSTEMS LIMITEDAppellant

Through: Mr. J. Sai Deepak, Sr. Adv. with Mr. Avinash Sharma and Ms. Mahua Roy Chowdhury, Advs.

versus

DURA-LINE INDIA PRIVATE LIMITEDRespondent

Through: Ms. Swathi Sukumar, Sr. Adv. with Mr. Essenese Obhan, Mr. Neel Mason and Ms. Yogita Rathore, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

MANMEET PRITAM SINGH ARORA, J. (ORAL)

CM APPL. 6379/2026 & CM APPL. 6380/2026 in RFA(OS)(COMM) 4/2026

1. CM APPL. 6379/2026 has been filed by the Appellant/Applicant under Section 151 of the Code of Civil Procedure, 1908 ['CPC'], seeking condonation of the delay of 54 days in filing the appeal.
2. CM APPL. 6380/2026 has been filed by the Appellant/Applicant under Section 151 of the CPC, seeking condonation of the delay of 111 days in re-filing the appeal.



3. The appeal has been filed against the judgment dated 19.05.2025 [‘impugned common judgment’] passed by the learned Single Judge in CC(COMM) 54 of 2017 [‘counterclaim’], whereby the said counterclaim, filed by the Appellant herein seeking revocation of the grant of IN’199722 [‘IN’722’], has been dismissed.

Pertinently, vide the same impugned judgment dated 19.05.2025, the learned Single Judge has decreed CS(COMM) 245/2017 [‘suit’], granting the relief for injunction prayed for by the Respondent herein on the finding that the Appellant is liable for infringement of the patent IN’722, while dismissing the counterclaim.

It is admitted that the defences raised by the Appellant for resisting the relief of permanent injunction in the suit are identical with the pleas forming the basis for the claim of revocation of patent IN’722 prayed for in the counterclaim.

4. It is a matter of record that the Appellant herein has filed its statutory appeal, i.e., RFA(OS)(COMM) 24/2025, assailing the common impugned judgment. This Court, in the said appeal, has granted an interim injunction in the Appellant’s favour and has further stayed the directions issued in the common impugned judgment insofar as they pertain to the rendition of accounts and the award of costs, while also postponing the commission of the Local Commissioner. However, the said appeal has been preferred against the grant of permanent injunction in the suit instituted by the Respondent.

5. Mr. Jai Sai Deepak, learned senior counsel, appearing on behalf of the Appellant, states that the Appellant was diligent and promptly filed



RFA(OS)(COMM) 24/2025 against the common impugned judgment, assailing the findings returned against the Appellant.

5.1. He states, however, that the Appellant had not preferred a separate appeal against the common impugned judgment *qua* the dismissal of the counterclaim, as it was under the bona fide belief that filing of the RFA(OS) (COMM) 24/2025 would sufficiently cover challenge to both the suit as well as the dismissal of the counterclaim, as both were disposed of vide the common impugned judgment.

5.2. He states, however, upon receiving legal advice that a separate appeal has to be maintained against the dismissal of the counterclaim, the Appellant took steps to file the appeal, which has led to the delay of 54 days in the filing. He states that the said delay was unintentional and that the Court may, on scrutinising the facts and circumstances set out in the applications, construe the same as a 'sufficient cause' for condoning the delay. He states that the Appellant has been diligent in challenging the common impugned judgment and has, by its conduct, not led the Respondent to believe that it had acquiesced or accepted the judgment of the learned Single Judge. He states that, therefore, CM APPL 6379/2026 may be allowed.

5.3. He states that with respect to the delay of 111 days in refiling the present appeal, the same is due to the fact that the e-file size of the documents intended to be filed was approximately 900 MB, whereas the Court's e-filing portal permits uploading of documents only up to 100 MB. He states that the appeal was filed on multiple occasions, most recently on 12.11.2025; however, the filing counsel faced technical challenges primarily due to the large file size. He states that the several attempts made by the



filing counsel to clear the defects can be verified from the record of the registry.

5.4. He states that the Appellant has not protracted or delayed the hearing of RFA(OS)(COMM) 24/2025 due to the delay in re-filing. He states that the Appellant has not gained any undue advantage as a result of the delay in re-filing.

5.5. He states that as a defendant, the Appellant has already raised defences to the claim of infringement and damages made by the Respondent in suit. However, on the same pleas, the Appellant has also sought revocation of the patent IN'722 in the counterclaim, and this relief would not be available in RFA(OS)(COMM) 24/2025.

6. In response, Ms. Swathi Sukumar, learned senior counsel for the Respondent, states that vide the common impugned judgment dated 19.05.2025, the learned Single Judge decreed the suit for patent infringement in favour of the Respondent and simultaneously dismissed the counterclaim of the Appellant. She states that the said judgment comprised two separate adjudications, each assuming the status of an independent decree under law. Consequently, separate appeals were mandatorily required to be filed by the Appellant.

6.1. She states that the Appellant consciously chose to file an appeal only against the findings of the learned Single Judge in the suit and not in the counterclaim. In this regard, she refers to a note made by the Advocate of the Appellant in the index of RFA(OS)(COMM) 24/2025.

6.2. She states that the Appellant consciously elected not to file a separate appeal challenging the dismissal of the counterclaim within the statutory



period of limitation.

6.3. She states that the plea of ignorance of the requirement of law to file separate appeals cannot constitute a ‘sufficient cause’ for condonation of delay under Section 5 of the Limitation Act, 1963 [‘the Act of 1963’]. She states that the power to condone delay in commercial disputes covered by the Commercial Act, 2015 [‘Act of 2015’] is to be exercised by way of exception, and not as a rule. In this regard, she is relying upon the judgment of the Supreme Court in **Government of Maharashtra (Water Resources Department) v. Borse Brothers Engineers and Contractors Pvt. Ltd.**¹ and a recent judgment by the Division Bench of this Court in **Casablanca Apparels Pvt. Ltd. v. POLO/Lauren Company L.P.**².

6.4. She states that the legal effect of the Appellant/defendant having failed to challenge the dismissal of the counterclaim is that the defences of the Appellant to its challenge to the grant of the injunction in the suit in RFA(OS)(COMM) 24/2025 are foreclosed, and this valuable right vested in the Respondent/plaintiff would be lost.

7. This Court has heard the learned senior counsel for the parties and perused the record.

8. The power to condone delay in filing an appeal arises from Section 5 of the Act of 1963, which provision requires the applicant/appellant to establish ‘sufficient cause’ to the satisfaction of the Court. In a catena of judgments, the Courts have held that the term ‘sufficient cause’ is to be interpreted to serve the interests of justice rather than thwart it, so as to

¹ 2021 SCC OnLine SC 233 [Paragraph Nos. 58 to 63, 69]

² 2025 SCC OnLine Del 5191 [Paragraph Nos. 8 to 17]



determine the dispute inter se parties on merits rather than defaults. The Supreme Court in **Shivamma (Dead) by Lrs v. Karnataka Housing Board and Others**³ has held that the Courts, while considering the applications of delay, must give primacy to the bona fides of the applicant/appellant over the sheer length of the delay. The relevant paragraphs of the judgment read as follows: -

“135. In construing “sufficient cause” it must be borne in mind that rules of procedure are handmaids of justice. Procedural rigidity should not become an instrument of injustice. In the context of Section 5 of the Limitation Act, this balance assumes special significance. Courts have repeatedly underscored that while limitation provisions are founded on sound principles of finality and certainty, their application cannot be divorced from the overarching objective of ensuring that litigants are not shut out from the doors of justice merely on account of technicalities.

136. When technical considerations of limitation conflict with the imperative of substantial justice, the latter should ordinarily prevail. Rules of limitation are not designed to destroy the rights of parties but to prevent inordinate delay in seeking remedies. Thus, the interpretation of “sufficient cause” must be liberal and purposive, aimed at advancing the cause of justice rather than defeating it. This is why the courts, while construing applications for condonation of delay, emphasize the bona fides of the applicant over the sheer arithmetical length of the delay.

137. Where strict adherence to these rules results in injustice, the Court is duty-bound to apply a liberal interpretation of “sufficient cause” so as to balance technical requirements with the demands of justice. A litigant does not stand to benefit by lodging an appeal late, and therefore, a pragmatic and justice-oriented approach must inform the judicial discretion under Section 5. This decision continues to be the most frequently cited authority for the proposition that the judiciary should incline towards justice rather than technicality. Therefore, when courts

³ 2025 SCC OnLine SC 1969



interpret “sufficient cause,” they are expected to exercise discretion in a manner that fosters justice, fairness, and equity, keeping in mind the realities of litigation.

138. When a Court of Law deals with an application to condone the delay filed under Section 5 of the Limitation Act, such application will have to be generally viewed in a liberal and lenient way to do substantial justice between the parties. Section 5 of the Limitation Act must be liberally construed and applied so as to advance substantial justice. It is undoubtedly true that a justice oriented approach is necessary while deciding application under Section 5 of Limitation. However, it cannot be said that in every case delay must necessarily be condoned. It is a condition precedent for Section 5 of the Limitation Act that there must be a sufficient reason for condoning the delay.”

[Emphasis supplied]

9. Therefore, what may be construed as a ‘sufficient cause’ for seeking condonation of delay is the Court’s discretion, which is to be determined in the facts and circumstances of each case. Undoubtedly, keeping in view the object of the Act of 2015 for speedy disposal, the said discretion has to be exercised as an exception and not by way of rule; nonetheless, the discretion to condone remains with the Court and the Court is not denuded of its discretion, if ‘sufficient cause’ is shown and the delay is short. This is well-capsulated by the Supreme Court in the judgment of **Borse Brothers Engineers and Contractors** (supra), relied upon by the Respondent, wherein paragraph ‘63’ reads 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(1-A) 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**.”

[Emphasis supplied]

10. While examining the application seeking condonation of delay, the test of ‘sufficient cause’ requires the Court to examine whether the delay is attributable to bona fide reasons or to deliberate inaction and/or negligence of the applicant/appellant, and also whether condoning such delay shall cause prejudice to the respondent.

To examine the issue of prejudice to the respondent, it would be relevant, for the Court, to assess if the delay in filing of the appeal has led the respondent to believe that the appellant has accepted the impugned judgment and the respondent believing the said fact has taken steps to arrange its affairs in a manner, which would be disrupted due to the entertaining of the belated appeal, thereby causing injustice to the respondent. Illustratively, in a dispute of patent infringement, where a petition seeking revocation is dismissed and the petitioner having failed to file an appeal within the statutory period, and for some time thereafter, leads the patentee to believe that the petitioner has accepted the dismissal, and relying upon the judgment the patentee has assigned the patent to third parties by making representations; in such a case, entertaining a belated appeal would cause prejudice to the patentee as well as its assignee, which would be a relevant fact to be considered by the Court for declining the plea of condonation.

11. In the facts of this case, however, Appellant had filed an appeal, i.e., RFA(OS)(COMM) 24/2025, within the statutory period, against grant of



injunction in the suit, challenging the common impugned judgment; thereby putting the Respondent to notice of its non-acceptance of the decision of the learned Single Judge while maintaining its challenge to the findings of validity of patent. The Respondent was thus aware that Appellant continues to contest the validity of the patent, and the issue has not achieved quietus. Therefore, no equity has been created in favour of the Respondent herein, as RFA(OS)(COMM) 24/2025 is still pending and the challenge to the patent remains sub-judice.

12. However, it is a matter of record that the Appellant failed to file a separate appeal *qua* the dismissal of its counterclaim arising from the common impugned judgment, within the stipulated time period, which it was required to do so in law, notwithstanding the challenge to the grant of injunction in the appeal already filed. As per the Appellant, the delay in filing this appeal has allegedly arisen on account of a mistaken belief that the appeal/RFA(OS)(COMM) 24/2025 preferred against the common impugned judgment would incorporate a challenge to the rejection of its defences in the suit as well as the prayer for revocation in the counterclaim. The Appellant contends that the said mistaken belief arose from ignorance of the law under mistaken advice from its counsel.

13. In our considered opinion, the Respondent is correct in contending that no party is allowed to plead ignorance of the law. The fact that Appellant did not receive correct legal advice shows negligence of its counsel, and Appellant would be well within its rights to seek redressal against its counsel for the said wrong advice.

However, the test the Court has to satisfy itself with is the bona fides



of the Appellant, and to assess whether the Appellant has been negligent in filing the appeal. It is in this background that the Court has to examine whether the incorrect legal advice of the counsel relied upon by the Appellant led to the bona fide delay, or is it a mere ruse to explain negligence. In this case, the Appellant has already challenged the common impugned judgment in RFA(OS)(COMM) 24/2025, which clearly establishes its diligence to pursue its appellate remedy. In these facts, the explanation of the Appellant that it failed to file a separate appeal to challenge the dismissal of the counterclaim based on wrong legal advice is hereby accepted, as otherwise the Court finds that the Appellant was bona fide in pursuing its appellate remedy. The 54-day delay is not colossal so as to negate the object of the Act of 2015, and we are unable to conclude that the Appellant's action in filing this appeal after a 54-day delay evidences negligence or laches. The omission to file this appeal challenging the dismissal of the counterclaim simultaneously with RFA(OS)(COMM) 24/2025, therefore, cannot be equated with Appellant's negligence, inaction or laches, which is the test laid down in the aforesaid judgment of the Supreme Court in **Borse Brothers** (supra).

14. It is trite law that the right to appeal is a substantive right vested in a litigant. The object of the law of limitation is to prescribe a time limit for availing the legal remedy, and the object is not to destroy the rights of the parties but to ensure that litigants do not resort to dilatory tactics and seek a remedy without delay. In balancing the equities between strict compliance with the rigour of limitation and the substantive right of appeal, the Courts have consistently adopted a justice-oriented approach. A delay, particularly



one that is unintentional, ought not to ordinarily result in the foreclosure of a valuable statutory right of appeal. Therefore, the emphasis of the Courts is on rendering justice by adjudicating the dispute on merits rather than defeating it on considerations of limitation, especially where no prejudice is caused to the Respondent herein, as observed above.

15. In view of our findings on the diligence of the Appellant in filing RFA(OS)(COMM) 24/2025 against the common impugned judgment, we are of the view that the Appellant unintentionally failed to file the present appeal to challenge the dismissal of the counterclaim. We are persuaded to accept that the Appellant had no intention to delay the adjudication of its dismissal of the counterclaim, and it has not gained in any manner by the delayed filing of the present appeal.

On the other hand, it is evident that the Respondent seeks to non-suit the Appellant even in RFA(OS)(COMM) 24/2025 on the plea, that by not filing a separate appeal against the dismissal of the counterclaim, all its defences vis-à-vis challenge to the grant of the injunction and validity of the patent in RFA(OS)(COMM) 24/2025 would also stand foreclosed on the plea of res-judicata. The prejudice caused to the Appellant in the adjudication of the RFA(OS)(COMM) 24/2025 would be substantive if this appeal is dismissed on the ground of delay. Therefore, we are of the considered opinion that the Appellant has made out sufficient cause, and this is a fit case for condoning the delay of 54 days as prayed for in CM No. 6379/2026.

16. With respect to the delay of 111 days in re-filing the appeal, the Respondent has primarily contended that the plea of procedural difficulty in



removing the objections is unbelievable, as the very same Appellant successfully completed the e-filing of RFA(OS)(COMM) No. 24/2025, which was in fact bulkier. Reliance has been placed on the judgment of the Division Bench in **Delhi Transco Ltd. v. Hythro Engineers Pvt. Ltd.**⁴ We do not intend to enter into a forensic examination of the reasons that led to repeated filings by the Appellant at the registry for the present appeal. The issue of condoning delay in re-filing is a matter between the Court and the litigant, and we find from the record that the Appellant re-filed the appeal 7 times after removing objections, which shows that the Appellant was following up; however, due to its counsel's inability, it was unable to clear the office objections in a timely manner. The ineffectiveness of the counsel to clear the objections cannot be attributed to the Appellant's intention not to pursue the listing of the appeal. Moreover, we find that the delay in listing of the present appeal has not led to any delay in the hearing of RFA(OS)(COMM) 24/2025, which is still pending and therefore no prejudice has been caused to the Respondent.

17. The delay of 54 days in filing the appeal and 111 days in refiling the appeal is hereby condoned.

18. The captioned applications are accordingly disposed of with costs of Rs. 50,000/- payable by the Appellant to the Delhi High Court Advocates Welfare Trust [A/c No. 15530210002995] and Rs. 50,000/- payable by the Appellant to the Delhi High Court Bar Clerk's Association [A/c No. 15530100006282], within one week. The costs have been awarded for the refiling delay.

⁴ 2012 SCC OnLine Del 3557



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RFA(OS)(COMM) 4/2026

19. List along with RFA(OS)(COMM) 24/2025 on the date already fixed, 12.05.2026.

MANMEET PRITAM SINGH ARORA, J

V. KAMESWAR RAO, J

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