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

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*Date of Decision : 22.01.2026*

+ RFA(COMM) 306/2025, CM APPL. 31015/2025, CM APPL. 31016/2025

GENIUS ELECTRICAL AND ELECTRONICS PVT. LTD.

.....APPELLANT

Through: Mr. Suresh Chand Singhal, Adv.

versus

SERVOTECH POWER SYSTEM PVT. LTD. D

.....RESPONDENT

Through: None

**CORAM:**

**HON'BLE MR. JUSTICE V. KAMESWAR RAO**

**HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA**

**MANMEET PRITAM SINGH ARORA, J. (ORAL)**

**RFA (COMM) 306/2025 and CM APPL. 31016/2025**

1. This is an application filed on behalf of the appellant/plaintiff seeking condonation of the delay of approximately 914 days in filing the present appeal for impugning the judgment/order dated 08.09.2022.
2. The present appeal filed under Section 96 of the Civil Procedure Court, 1908 ('CPC') read with Section 13 of the Commercial Courts Act, 2015 ('Act of 2015') itself is directed against the judgment/order dated



08.09.2022 passed by the Court of District Judge (Comm)-01, North District, Rohini Courts, Delhi in CS (COMM) No. 295 of 2022, whereby the plaint instituted by the appellant was rejected under Order VII Rule 11(c) of the CPC on the ground of non-payment of court fees despite multiple opportunities ('impugned order I').

2.1. Upon becoming aware of the rejection of the plaint through inspection of the order sheets, the appellant filed an application under Order IX Rule 4 read with Sections 47 and 151 CPC, along with an application for condonation of delay, seeking recall of the order dated 08.09.2022. The said applications were dismissed by an order dated 07.04.2025, passed in Misc. DJ No. 345/2025. ('impugned order II')

#### **Brief facts**

3. The appellant is stated to be a private limited company engaged in the business of manufacturing electrical transformers and allied products. It is averred that the respondent is also a private limited company and the parties had longstanding commercial dealings.

4. The appellant instituted a commercial suit for recovery of Rs. 7,29,261/-, along with pendente lite and future interest at 18% per annum.

It is stated that appellant/plaintiff is entitled to recover a sum of Rs. 7,29,261/-, arising out of supplies made to the respondent between the years 2016 to 2019. It is stated that, upon reconciliation of accounts, an amount of Rs. 14,58,864/- was outstanding as on March 2018; and, after part-payment of Rs. 7,29,602/- made on 06.04.2019, a balance sum of Rs. 7,29,261/- remained due and payable. It is stated that despite repeated requests and issuance of a legal notice dated 22.09.2020, the respondent failed to liquidate the outstanding dues.



5. In these facts, the appellant complied with the requirement of pre-institution mediation under the Act of 2015, which culminated in a non-starter report. Subsequently, a commercial suit for recovery of the outstanding amount with interest was instituted on 26.05.2022 and was first listed on 28.05.2022. The suit was adjourned on 28.05.2022, so as to enable the appellant/plaintiff to deposit the Court fees. The suit was once again adjourned on 15.07.2022 to enable the appellant/plaintiff to deposit the requisite Court fees on or before 08.09.2022. However, the appellant/plaintiff failed to deposit the Court fees and there was no appearance on its behalf on 08.09.2022; in these facts the learned Trial Court rejected the plaint under Order VII Rule 11(c) CPC for non-payment of court fees on 08.09.2022.

6. The appellant/plaintiff on 11.02.2025 (after 2½ years) filed an application under Order IX Rule 4 CPC before the Trial Court for recalling of the order dated 08.09.2022. The said application was dismissed by the learned Trial Court vide order dated 07.04.2025 on merits as well as on the grounds of limitation.

7. Learned counsel for the appellant states that appellant/plaintiff had engaged Mr. Satyendra Verma, Advocate for filing the suit and had been diligently following up on the progress of the suit. He relies upon the WhatsApp chats exchanged between the representative of the appellant and Mr Satyendra Verma, Advocate, between 12.08.2022 and 24.02.2023 to show diligence in following up. He states that the appellant thereafter learnt that Mr. Satyendra Verma, Advocate, had expired on 21.04.2023. He states that appellant also reached out to the proxy counsel Shri D.R. Jain, whose



appearance was marked in the order dated 15.07.2022, however, he learnt that the said advocate had also expired.

7.1. He states that appellant had no knowledge about the dismissal of the suit vide impugned order I dated 08.09.2022, and in this background, he approached the new counsel, Mr. S.C. Singhal, Advocate, who has filed the present appeal and it was then that the appellant learnt about the dismissal of the suit for the first time on 25.01.2025, through the new counsel Mr. Singhal.

#### **Decision**

8. The Court has heard the learned counsel for the appellant and perused the record.

9. The subject matter of the appeal is challenge to the order dated 08.09.2022, whereby the suit was dismissed on the ground of non-payment of the court fee under Order VII Rule 11(c) CPC, despite multiple opportunities granted by the Trial Court to deposit the Court fees.

10. The appellant has relied upon the WhatsApp chats between 12.08.2022 and 24.02.2023 to show its diligence in following up on the on the proceedings with Mr. Satyendra Verma, Advocate; however, the appellant admits that Mr. Satyendra Verma, Advocate, expired on 21.04.2023.

There is no explanation on record with respect to the steps taken by the appellant after 21.04.2023 to follow up on the progress of the suit proceedings. After the said date, the only document available on record is the application dated 11.02.2025 filed by the appellant before the Trial Court under Order IX Rule 4 CPC seeking recall of the order dated 08.09.2022.



11. The appellant has failed to explain its lack of diligence for an entire period between 24.02.2023 to 11.02.2025 (two years) in following up on the suit proceedings.

12. The appellant, during arguments, has only relied upon equity for seeking condonation of delay of these 914 days in filing the present appeal. In this regard, this Court notes that the appellant herein is a corporate entity and the proceedings arise under the Act of 2015 where the plaintiff and the defendant are required to proceed diligently and time bound manner, however, there is no reasonable explanation for appellant's lack of diligence in following up on its proceedings before the Trial Court after institution in May 2022 until February, 2025.

13. The record of the Trial Court reveals that although the appellant instituted the suit on 26.05.2022, and was granted three opportunities on 28.05.2022, 15.07.2022, and 08.09.2022, the appellant failed to deposit the requisite court fee on any of the said dates; and was unrepresented on 08.09.2022.

14. This Court is of the considered opinion that Trial Court had afforded adequate and sufficient opportunities to the appellant to deposit the requisite court fee by granting extensions of time on 28.05.2022 and 15.07.2022; however, the persistent failure of the appellant to deposit the Court fees clearly demonstrates a negligent and lackadaisical approach in prosecuting the suit proceedings, which is writ large on the record.



15. It would be apposite to refer to the judgment of the Supreme Court in ***Pathapati Subba Reddy v. Special Deputy Collector***<sup>1</sup> wherein the law relating to condonation of delay has been summarised as under: -

“.....

28. *On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:*

28.1. *Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;*

28.2. *A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;*

28.3. *The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;*

28.4. *In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;*

28.5. *Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;*

28.6. *Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;*

28.7. *Merits of the case are not required to be considered in condoning the delay; and*

28.8. *Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning*

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<sup>1</sup> (2024) 12 SCC 336



*the delay for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.”*

[Emphasis supplied]

16. In the considered opinion of this Court, the appellant herein has failed to show any due diligence in first, prosecuting the suit and thereafter filing the appeal. The appellant has therefore failed to make out any sufficient cause for condoning the delay of 914 days in filing the present appeal against the judgment/order dated 08.09.2022 and therefore prayer for condonation of delay is not made out.

17. The appellant/plaintiff on merits has challenged the order dated 08.09.2022 on the ground that an application seeking exemption/extension of time from filing the Court fees was filed with the plaint and was pending adjudication. The appellant contends that in view of the pendency of the said application, the order dated 08.09.2022 is bad in law.

18. The record shows that the learned Trial court on 28.05.2022 and 15.07.2022 granted further time to the appellant/plaintiff to make good the deficiency of Court fee as stipulated in the proviso to Order VII Rule 11 CPC. In view of the extension of time granted on 28.05.2022 and 15.07.2022, the prayers in the application of the Plaintiff seeking extension of time to pay Court fee stood granted and the plaintiff failed to avail the said extension of time. Thus, the ground on which the impugned order dated 08.09.2022 is sought to be challenged is also without any merits.

19. The appellant/plaintiff has also filed this appeal against order dated 07.04.2025, whereby the application under Order IX Rule 4 CPC for recall of order dated 08.09.2022 was dismissed. This order is not appealable under



Order 43 Rule 1 CPC and therefore challenge to the said order is not maintainable under Section 13 of the Act of 2015.

20. The appeal is therefore dismissed both on merits and on the ground of limitation.

21. Pending applications, if any are also disposed of.

**MANMEET PRITAM SINGH ARORA, J**

**V. KAMESWAR RAO, J**

**JANUARY 22, 2026**

*hp/AQ*