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

Reserved on: 28th January, 2026
Pronounced on: 06th February, 2026

+ CS(COMM) 300/2025 & I.A. 8728/2025, I.A. 16196/2025, I.A. 23769/2025, I.A. 24120/2025

TROPICAL INDUSTRIES INTERNATIONAL PVT LTD & ANR.

.....Plaintiffs

Through: Ms. Sowmya Saikumar and Mr.

Siddharth Vaid, Advs.

Mob: 9891239259

Email: sowmyasaikumar@gmail.com

Versus

VITTHAL CASHEW INDUSTRIES & ANR.Defendants

Through: Mr. Sahil Chandra, Adv.

Mob: 9724017329

Email: sahilc4office@gmail.com

CORAM:

HON'BLE MS. JUSTICE MINI PUSHKARNA

JUDGMENT

MINI PUSHKARNA, J.

I.A. 24120/2025

1. The present application has been filed on behalf of the defendants under Order XXXVII Rule 3(7) read with Section 151 of the Code of Civil Procedure, 1908 (“CPC”), seeking condonation of delay in filing application for leave to defend, in the present summary suit.

2. There is a delay of 49 days in filing the application seeking leave to defend, which has been explained by the defendants in the following



manner:

“xxx xxx xxx

5. That it is a respectful submission that there has been a delay of 49 days in filing the Application seeking Leave to Defend. It is submitted that such delay was neither intentional nor deliberate, and the Defendants required time to cull out the relevant details and documents so as to controvert the falsehoods and half-truths being perpetuated by the Plaintiffs. The Defendants most humbly crave leave of this Hon'ble Court to read the contents of the accompanying the Application seeking Leave to Defend for the purposes of the present Application, and the same are not being repeated herein for the sake of brevity and to avoid prolixity.

6. That it is most humbly submitted that the authorized representative of the Defendants was unable to devote uninterrupted and continuous time on account of his poor health conditions which rendered him unable to coordinate and instruct Counsel for the timely preparation and filing of the Application seeking Leave to Defend. Further, contents of the Plaintiff along with its documents comprised extensive commercial records, spanning several years, requiring collation, and scrutiny. The process of reconstructing material facts and tracing historical payments, negotiations, and contracts was arduous and consumed considerable time.

7. That further, different persons and employees including those who were earlier involved in maintaining the records had to be consulted which further consumed time. It is submitted that the Plaintiffs have deliberately withheld and suppressed material facts that are essential for a fair adjudication of the present dispute. Crucial discussions and negotiations evidenced through correspondence exchanged between the parties during previous years, particularly those documenting then ongoing discussions on account reconciliation, quality and price negotiations, and the conduct of the parties, have not been disclosed with the Plaintiff. These documents are of fundamental importance, as they would reveal that the obligations claimed by the Plaintiffs were not unconditional or absolute, but always subject to contemporaneous negotiations and mutual adjustments. By suppressing these records, the Plaintiffs seek to present a distorted narrative, depriving this Hon'ble Court of the true sequence of events and commercial understanding between the parties.

8. That the Defendants were compelled to undertake an exhaustive search of physical and electronic records, which dated back several years, in order to trace the full history of the commercial relationship. The necessity to retrieve these communications, spanning emails,



invoices, payment advices etc. was exacerbated by the Plaintiffs' selective disclosure and intentional avoidance of reference to such exchanges. Had the Plaintiffs placed the entirety of the correspondence and transactional documents on record, much of the present controversy could have been resolved. The suppression of these facts by the Plaintiffs is not only a breach of the Plaintiffs' duty to approach this Court with clean hands, but also amounts to an abuse of process.

9. That the preparation of the Application seeking Leave to Defend entailed a meticulous, multi-stage drafting process. Initially, the draft was prepared by counsel after examining the Plaintiff and basis instructions received, but in the course of review, certain factual gaps in supporting documentation were identified. Consequently, Counsel sought further clarifications and additional information from the Defendants, which necessitated some more time for internal coordination and collation of documents. After these inputs were received and incorporated, the revised draft was circulated to the authorized representative for final approval.

10. That the review process was further delayed as the authorized representative of the Defendants was unfortunately indisposed on account of infirmity. Owing to his health condition, he was unable to promptly review and return the draft with his comments. Once he recovered sufficiently, he provided detailed instructions, leading to further factual modifications in the application. After implementing these changes, Counsel again submitted the draft for the Defendants' approval before filing. These sequential steps, involving repeated reviews, amendments, and communication, contributed to the overall delay in presentation of the application, despite the best efforts of all parties involved.

11. That bona fide and sincere efforts made by the Defendants to collate voluminous commercial records spanning several years which was time-consuming and necessary to present a complete and accurate defence. It is respectfully submitted that endeavours by the Defendants, coupled with no mala fide or willful negligence in the delay, strongly merits condonation in the interest of justice.

xxx xxx xxx”

3. Perusal of the aforesaid excerpts from the application of the defendants seeking condonation of delay, demonstrates that the only explanation given by the defendants is that the authorized representative of



the defendants was unable to devote uninterrupted and continuous time on account of his poor health conditions, and the said authorized representative was unable to coordinate and instruct the counsel for timely preparation and filing of the application seeking leave to defend. It is also the contention of the defendants that since the documents comprised extensive commercial records spanning several years, the same required collation and scrutiny, on account of which, there was delay in filing the application for seeking leave to defend.

4. The aforesaid explanation advanced on behalf of the defendants does not disclose any sufficient cause for condoning delay by this Court considering the facts and circumstances of the present case, wherein, for the same cause of action regarding recovery of money, the parties were engaged in various rounds of litigation previously.

5. It is pertinent to note that the plaintiffs herein had earlier filed a summary suit being *Com.O.S. 506/2021* before the Additional District Judge-IV and Commercial Court at Mangaluru, seeking recovery of the amounts due and payable from the defendants. The defendants had duly filed an application for leave to defend in the said suit, wherein, their application for leave to defend was rejected by way of order dated 20th April, 2022.

6. Subsequently, in the second round of litigation between the parties, the defendants challenged the said order dated 20th April, 2022, passed by the Commercial Court, Mangaluru by filing a writ petition in the High Court of Karnataka. The said writ petition being *WP 9481/2022 (GM-CPC)* was dismissed by the High Court of Karnataka *vide* order dated 19th July, 2022, thereby, holding that the defendants herein did not have a good defence to



defend the summary suit.

7. In the third round of litigation between the parties, the defendants preferred a Special Leave Petition being *SLP (C) 13822/2022* before the Supreme Court. By order dated 12th August, 2022, the Supreme Court in *Civil Appeal 5277/2022*, arising out of the *SLP (C) 13822/2022* filed by the defendants, remanded the matter to the High Court of Karnataka to the extent of consideration on the issue of jurisdiction.

8. In the fourth round of litigation, the parties approached the High Court of Karnataka in terms of the directions of the Supreme Court. *Vide* order dated 27th June, 2023, the High Court of Karnataka set aside the order dated 20th April, 2022, passed by the Commercial Court at Mangaluru on the ground that the said Court did not have the jurisdiction to entertain or adjudicate upon the suit filed by the plaintiffs herein. The plaint was directed to be returned to the plaintiffs to represent the same at the jurisdictional court at New Delhi.

9. In the fifth round of litigation, the plaintiffs preferred *SLP (C) 24957/2023* against the order dated 27th June, 2023, passed by the High Court of Karnataka. However, the same was dismissed by the Supreme Court *vide* order dated 20th November, 2023.

10. In the sixth round of litigation between the parties, the plaintiffs herein preferred a *Review Petition (C) 81/2024* against the order dated 20th November, 2023, passed by the Supreme Court. The said Review Petition was again dismissed by the Supreme Court *vide* order dated 14th February, 2024.

11. Accordingly, the original plaint filed by the plaintiffs before the Commercial Court at Mangalore was returned to the plaintiffs, and



consequently the present suit was filed, being the seventh round of litigation between the parties.

12. It is also to be noted that the plaintiffs had filed an application under Section 12A of the Commercial Courts Act, 2015, thereby, initiating mediation proceedings. After multiple hearings from September, 2024 to December, 2024, the mediation proceedings failed.

13. Accordingly, the defendants were party to multiple rounds of litigation with respect to the same subject matter, as in the present proceedings. Therefore, the contention of the defendants that it took time to collate various documents cannot be acceptable. The defendants had not only filed leave to defend in previous proceedings between the parties, but have been litigating with the plaintiffs over a substantive period of time with respect to the claim of the plaintiffs seeking recovery of amounts, which forms the subject matter of the present proceedings also. Therefore, it is not the first time that the defendants had to scrutinise or collate the documents, considering the multiple rounds of litigation in this regard between the parties. Therefore, there is no sufficient cause or explanation for condoning delay in the present case on the basis of the explanation sought to be advanced by the defendants.

14. It is to be noted that the present suit is in the nature of a Summary Suit under Order XXXVII of the CPC. Unlike ordinary civil suits, the defendants in Summary Suits are not entitled to defend as of right, but must apply for leave to defend. Order XXXVII provides for a fast-track adjudicatory mechanism. The object underlying the summary procedure is to ensure an expeditious hearing and disposal of the suit, and to prevent unreasonable obstruction by the defendant who either has no defence or raises a frivolous/



vexatious defence.

15. In terms of Order XXXVII Rule 3 (7) of the CPC, the defendants have to file the application for leave to defend within a period of ten days from receipt of the summons for judgment. Further, Order XXXVII Rule 3(7) of the CPC, clearly states in unambiguous terms that the Court may condone the delay in filing the leave to defend only if sufficient cause is shown by the defendants. Further, Section 5 of the Limitation Act, 1963 (“Limitation Act”) states that an application may be admitted after the prescribed period, if the applicant satisfies the Court that he had “sufficient cause” for not making the application within the prescribed period.

16. Accordingly, in Summary Suits, in case, of delay in filing an application for leave to defend, the burden is on the party seeking extension of limitation, to show that it acted with care and attention, and was not negligent or careless.

17. On the aspect of determining “sufficient cause” for condoning delay, the object of Order XXXVII of the CPC that the defendant should not unnecessarily prolong litigation and prevent the plaintiff from obtaining an early decree in a class of cases, where speedy decisions is desirable in the interest of trade and commerce, would be a relevant consideration. Thus, this Court in the case of ***Escorts Finance Ltd. Versus Nielcon Ltd. & Anr., 2000 SCC OnLine Del 39***, held as follows:

“xxx xxx xxx

I have heard learned counsel for the parties. Learned counsel for the defendants has contended that the defendants are located in Bombay and delay was caused in finalising the replies by their counsel in Delhi and Bombay as some amendments had to be made in the draft replies prepared by their counsel in Delhi and Bombay, the delay is unintentional and bona fide and in the circumstances sufficient cause exists for condonation of delay. Whereas learned counsel for the



plaintiff has contended that there is gross negligence, inaction and lack of diligence and bona fides on the part of the defendants and sufficient cause for condonation of delay is not made out. He has relied on *Ram Lal v. Rewa Coalfields Ltd. AIR 1962 SC 361, DCM Financial Services Limited v. Khaitan Hostombe Spinels Ltd. 1998 (47) DRJ 210* and *Nirayu Pvt. Ltd. v. Mohan Lal 1998 (46) DRJ 337*.

Rule 3(7) of Order 37 which provides for condonation of delay reads as under:—

3. Procedure for the appearance of defendant.—

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(7) The Court or Judge may, for sufficient cause shown by the defendant, excuse the delay of the defendant in entering an appearance or in applying for leave to defend the suit.

Provision for condonation of delay on “sufficient cause” is also provided under Section 5 of the Limitation Act. The Supreme Court in the case of Ram Lal (supra) has laid down that two important considerations have to be borne in mind for construing Section 5 of the Limitation Act. First consideration is that the expiration of the period of limitation prescribed gives rise to a right in favour of the other party and the right so accrued should not be lightly disturbed. The other consideration is that if sufficient cause for excusing delay is shown discretion is given to the Court to condone the delay, of course, this discretion should be exercised to advance substantial justice. The Supreme Court has referred with approval to the following observations made by Madras High Court in *Krishna v. Chathappan ILR 13 Mad 269*:—

“Section 5 gives the Court a discretion which in respect of jurisdiction is to be exercised in the way in which judicial power and discretion ought to be exercised upon principles which are well understood; the words ‘sufficient cause’ receiving a liberal construction so as to advance substantial justice when no negligence nor inaction nor want of bona fide is imputable to the appellant.”

In this case, if the delay is not condoned, plaintiff will be entitled to straightaway decree as provided under Order 37 Rule 3(6) of the Code.

In DCM Financial Services Limited (supra), it has been laid down that the test whether or not a cause is sufficient is to see whether delay could have been avoided by the party by the exercise of due care and attention as nothing shall be deemed to be done bona fide or in good faith which is not done with due care and attention. The



same test has also been laid down in the case of *Nirayu Pvt. Ltd. v. Mohan Lal (supra)*.

The principles thus to be taken into consideration for condonation of delay would be: (1) while liberal construction is to be given to the words “sufficient cause” to advance substantial justice, liberal construction, however, is available only when no negligence or inaction or want of bona fide is imputable to the party invoking Section 5; (2) want of due care and attention or want of due diligence negatives the existence of sufficient cause; (3) burden is on the party seeking extension of limitation to show that he acted with care and attention and was not negligent or careless; (4) each case is to be seen on its facts and circumstances and the circumstances to be “sufficient cause” must appear to the Court to be reasonable having regard to the facts and circumstances of the case.

For determining whether “sufficient cause” in the circumstances exists or not, the object of the enactment wherein this discretion is sought to be exercised would also be a relevant consideration.

The provisions of Order 37 of the Code are a special enactment which applies to certain categories of cases. The object for this enactment is that the defendant does not unnecessarily prolong litigation and prevent the plaintiff from obtaining an early decree in a class of cases where speedy decisions are desirable in the interest of trade and commerce.

xxx xxx xxx”

(Emphasis Supplied)

18. In the present case, it is manifest that the delay in filing the application for leave to defend flows from the defendants' internal disorganization, negligence, inaction and lack of *bona fide* means. No exceptional circumstances showing sufficient cause have been shown to exist in the present case. The pleaded grounds by the defendants of ill-health of the authorized representative and time taken for collation of documents are vague, unsubstantiated and lack credibility, given multiple prior litigations between the parties since the year 2021. Consequently, the defendants' disregard for statutory timelines, compounded by an inexcusable and unjustifiable delay in filing the application for leave to defend,



highlights a clear case of negligence and laxity.

19. This Court cannot lose sight of the fact that Order XXXVII of CPC has been enacted with the objective of ensuring expeditious and swift adjudication of cases involving monetary claims. The delay in filing an application for leave to defend would be condoned by this Court only when a party has acted in a *bona fide* manner, and not negligently. However, in the present case, the application of the defendants fails to disclose any sufficient cause for condoning the delay in filing the application for leave to defend. The defendants have taken a very casual approach, which can be gauged from the conduct of the defendants. If a party is found to be negligent and not having acted diligently, this Court will not exercise its discretion for condoning delay. Delving on the aspect of condonation of delay, the Supreme Court in the case of ***Thirunagalingam Versus Lingeswaran and Another, 2025 SCC OnLine 1093***, held as follows:

“xxx xxx xxx

31. *It is a well-settled law that while considering the plea for condonation of delay, the first and foremost duty of the court is to first ascertain the bona fides of the explanation offered by the party seeking condonation rather than starting with the merits of the main matter. Only when sufficient cause or reasons given for the delay by the litigant and the opposition of the other side is equally balanced or stand on equal footing, the court may consider the merits of the main matter for the purpose of condoning the delay.*

32. *Further, this Court has repeatedly emphasised in several cases that delay should not be condoned merely as an act of generosity. The pursuit of substantial justice must not come at the cost of causing prejudice to the opposing party.* In the present case, the respondents/defendants have failed to demonstrate reasonable grounds of delay in pursuing the matter, and this crucial requirement for condoning the delay remains unmet.

xxx xxx xxx”

(Emphasis Supplied)



20. Holding that the test for ascertaining whether or not a cause is sufficient is whether delay could have been avoided by the party seeking condonation, by exercise of due care and attention, this Court in the case of ***Swarovski India Pvt. Ltd. Versus M/s. SPA Agencies & Another, 2009 SCC OnLine Del 1778***, held as follows:

“xxx xxx xxx

15. Under Order, 37 Rule 3(7) CPC court has the power to excuse the delay of the defendants in entering the appearance and applying for leave to defend the suit if sufficient cause is shown by the defendant. Order 37 is a complete Code in itself and it does not need any assistance of Section 5 of the Limitation Act for condonation of delay.

16. Section 5 of the Limitation Act is a discretion which the court can exercise in the way in which judicial power and discretion ought to be exercised upon principles which are well understood. The words 'sufficient cause' in Order, 37(3)(7) CPC receives a liberal construction so as to advance substantial justice when no negligence nor inaction nor want of bona fide is imputable to the application. In DCM Finance Services Limited v. Khaitan Hostombe Spinels Ltd., 75 (1998) Delhi Law Times 629, it has been held that the test whether or not a cause is sufficient is to see whether delay could have been avoided by the party seeking condonation by exercise of due care and attention as nothing could be deemed to be done bona fide and in good faith which is not done in due care and attention. It was observed:—

“7. The contents of the application filed by the defendant under Section 5 of the Limitation Act would abundantly and clearly prove and establish that instead of explaining the cause for the delay not to speak of proving sufficient cause for condonation of delay the defendant sought to assert that its appearance was within time of 10 days as provided for under rule 3 of Order. XXXVII as the summons were not served on the defendant. The aforesaid assertion of the plaintiff was negatived both by the order dated 5.8.1997 passed by this court and order dated 12.1.1998 passed by a Division Bench of this Court. The aforesaid assertion of the defendant that the summons were not served on the defendant and that appearance had been made within 10 days of coming to know about the pendency of the case, was found to be incorrect and contradicted by the documents available on record. The defendant has failed to plead any cause much less sufficient cause for the delay in making appearance in the court in terms of Rule 3 of



Order XXXVII CPC. No Explanation is forthcoming from the defendant about the reasons and grounds for the delay in making appearance. The test whether or not a cause is sufficient is to see whether it could have been avoided by the party by the exercise of due care and attention as nothing shall be deemed to be done bona fide or in good faith which is not done with due care and attention. In order to find out and adjudge whether there is sufficient cause or not to condone the delay there should have been pleadings in the application giving reasons and grounds and making out a case of sufficient cause for the delay in making appearance in the court. In the absence of any such pleading this court is not in a position to hold that the defendant was prevented by sufficient cause in making appearance in the case in terms of rule 3 of Order XXXVII CPC. Thus the application filed by the defendant under Section 5 of the Limitation Act and registered as I.A. 11951/1996 stands rejected.”

17. Reference is also made to 'Escorts Fiance Ltd. v. Nielcon Ltd., 2000 (55) DRJ 48' and 'Rane Parkash v. Central Bank of India.105 (2003) Delhi Law Times 373'.

18. Coming back to the present case it was for the defendants who sought condonation of delay in filing the leave to defend application to explain each days delay and making certain delayed and imaginary grounds cannot be considered sufficient for condonation of delay in the present case.

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20. As discussed above, there is lack of bona fide on the part of defendant No. 2. He is also responsible for his carelessness, want of due diligence and therefore cannot claim the shelter of liberal interpretation of "sufficient cause". The provisions of order, 37 are special enactment which apply to certain categories of cases specified therein. This provision has been enacted with an object that the defendants do not unnecessarily prolong litigation and prevent the plaintiff from obtaining early decree in a case falling within the ambit of the said decision where speedy decisions are desirable in the interest of trade and commerce.

xxx xxx xxx”

(Emphasis Supplied)

21. Likewise, holding that Order XXXVII of CPC is a pivotal mechanism designed to facilitate the swift resolution of specific types of civil disputes, the provision requires the defendants to take prompt action in the face of



legal proceedings, and delay caused by a party on account of absence of due care and attention cannot be excused on the ground of sufficient cause, this Court in the case of ***Loveneet Singh and Others Versus Neeraj Sarna, 2024 SCC OnLine Del 3208***, held as follows:

“xxx xxx xxx

39. A perusal of the above provision states that Order XXXVII of the CPC is a pivotal mechanism designed to facilitate the swift resolution of specific types of civil disputes, particularly those pertaining to commercial transactions and debt recovery. Its overarching purpose is to streamline the legal process, expediting the adjudication of uncontested claims while concurrently conserving judicial resources.

40. Order XXXVII enables the Courts to efficiently dispose of cases without the need for protracted trial proceedings by providing a structured framework for the adjudication of summary suits, which are typically based on documentary evidence. This procedural efficiency not only reduces the burden on the judiciary but also affords litigants an expedient route to obtain justice, thereby, upholding the principles of fairness and speedy disposal in civil litigation. Prescription of Rule 3(5) within the framework of Order XXXVII of the CPC, assumes a particular significance, due to its imposition of a stringent timeline on defendants seeking leave to defend the suit.

41. Tersely stated, the defendants under this provision, were granted a time period of ten days' from the date of service of summons to apply for leave to defend by way of an application before that Court. Such a concise timeframe underscores the imperative nature of prompt action in the face of legal proceedings, thereby, emphasizing the necessity for defendants to promptly present their defence or objections.

42. By imposing the above said abbreviated window, Rule 3(5) of Order XXXVII of the CPC serves as a deterrent against dilatory tactics and ensures the expeditious disposal of summary suits, aligning with the overarching objective of Order XXXVII of the CPC which is to facilitate the resolution of civil disputes. Moreover, this stringent timeline also underscores the importance of timely engagement in legal proceedings, fostering a culture of responsiveness and efficiency within the realm of civil litigation.

43. Furthermore, Rule 3(7) of Order XXXVII of the CPC provides for the defendants to seek an extension of time beyond the stipulated period of ten days under Rule 3(5). Rule 3(7) provides for a mechanism and allows the defendants to apply to the Court to enter appearance or leave to



defend the suit even after expiration of the prescribed timeframe, provided they demonstrate sufficient cause/grounds for the said delay. The provision stated above has been enshrined with an intent to recognize certain extraordinary circumstances, wherein, the defendants may require additional time to put forth their defence and/or gather relevant evidence, thereby, ensuring fairness in the adjudicative process while maintaining the overarching objective of expeditious dispute resolution under Order XXXVII of the CPC.

44. The law with regard to the condonation of delay in filing the application seeking leave to defend is well settled. A Coordinate Bench of this Court in Escorts Finance Ltd. v. Nielcon Ltd., 2000 SCC OnLine Del 39, observed that there exist three key principles to be taken into consideration for condonation of delay in filing applications seeking leave to defend. Firstly, a liberal interpretation of the words "sufficient cause" is required for the sake of justice and such interpretation should only be done in cases where there is no negligence, inaction or lack of bona fide on the part of the applicant. Secondly, the need for due care and attention and the want for due diligence negates the existence of sufficient cause. Thirdly, the onus of proof to show presence of due care and diligence along with lack of negligence and inaction is on the party seeking extension. Lastly, each case must be considered and tried on the merits of its own facts and circumstances. The relevant paragraphs of the said judgment are reproduced herein below:.....

xxx xxx xxx

45. Furthermore, in D.C.M. Financial Services Ltd. v. Khaitan Hostombe Spinels Ltd., 1998 SCC OnLine Del 665, a Coordinate Bench of this Court further held that the test for whether or not there exists sufficient cause is to see whether the delay in question could have been avoided by the party through the exercise of due care and nothing shall be deemed to be a bona fide action of the party if not enacted with due care and attention. Similarly, the test discussed above was further laid down in the case of Nirayu Pvt. Ltd. v. Mohan LaL, 1998 SCC OnLine Del 249.

xxx xxx xxx

57. As per the settled position of law, bearing in mind the expeditious nature of the provisions of summary suit, condonation of delay is an exception and must not be granted in a routine manner. The Courts while condoning the delay, more specifically, enormous delay, have to consider the genuineness of the reasons furnished by the party seeking condonation of delay. Only if the reasons are genuine and acceptable, then alone, such a huge delay is to be condoned and not otherwise. A person, who is not vigilant, is not entitled for the relief after a



prolonged period.

xxx xxx xxx”

(Emphasis Supplied)

22. In the facts and circumstances of the present case, the defendants have not been found to have acted diligently. The grounds raised by the defendants for condoning delay are devoid of merits, and no cogent explanation has been given by the defendants for delay in filing the application for leave to defend.

23. Accordingly, the present application is dismissed.

CS(COMM) 300/2025

24. Since the application of the defendants seeking condonation of delay in filing the application for leave to defend has been dismissed, the application for filing leave to defend, i.e., *I.A. 23769/2025*, is dismissed as time-barred.

25. In view of the application of the defendants for leave to defend being dismissed as barred by limitation, the plaintiffs are entitled to a decree.

26. The suit has been filed for recovery of money of Rs. 15,29,879/- in favor of plaintiff no.1, which includes Rs. 9,25,769/- towards warehouse and rental charges, and Rs. 6,04,110/- towards interest for delay in payment of Rs. 3,50,00,000/- from 15th May, 2019 till 26th June, 2019.

27. Further, the suit also seeks recovery of money of Rs. 7,99,01,033/- in favor of plaintiff no. 2, which includes Rs. 4,28,51,572/- as the principal amount, and interest of Rs. 16,70,499/- for delay in payment of the amount of Rs. 4,89,74,465.70/- from 13th June, 2019 till 04th September, 2019, and interest of Rs. 3,53,78,962/- in delay in payment of the outstanding amount of Rs. 4,28,51,572/- from 04th September, 2019 till 05th March, 2025.



28. In addition to this, the plaintiffs have sought *pendente lite* and future interests @ 24% per annum on the amounts of Rs. 15,29,879/- and Rs. 7,99,01,033/- each, payable respectively to plaintiff no. 1 and plaintiff no. 2.

29. This Court notes that as per Clause 5.3 of the Settlement Agreement dated 29th April, 2019, the parties agreed that in case of delay in payments, interest @ 15% per annum will be payable from the due date till the date of actual payment. Thus, when the Settlement Agreement between the parties itself provides that in case of delay in payment, an interest @ 15% would be levied from the due date till the date of actual payment, the Court would accordingly award interest in favour of the plaintiffs @ 15% per annum as *pendente lite* and future interest.

30. Accordingly, *qua* plaintiff no.1, this Court notes that the defendants were under an obligation to pay Rs. 3,50,00,000/- to plaintiff no. 1 by 15th May, 2019, as per the aforesaid Settlement Agreement. As per the plaint, the plaintiffs accepted cashew kernels worth Rs. 3,50,00,000/- in *lieu* of the agreed amount. However, the said cashew kernels were only delivered on 26th June, 2019, which is after the due date of 15th May, 2019. Thus, an interest @ 15% per annum on the amount of Rs. 3,50,00,000/- from 15th May, 2019 till 26th June, 2019 is payable by the defendants to the plaintiff no. 1 on account of delay, i.e., Rs. 6,04,110/- as claimed in the suit. Further, the plaintiff no. 1 is also held entitled to Rs. 9,25,769/- towards warehouse and rental charges. Thus, plaintiff no.1 is held entitled to total sum of Rs. 15,29,879/-, along with interest @ 15% per annum as *pendente lite* and future interests till date of actual payment.

31. *Qua* plaintiff no. 2, this Court notes that the defendants were liable to pay Rs. 4,89,74,465.50/- to plaintiff no. 2 within 45 days of the Settlement



Agreement, i.e., by 13th June, 2019. As per the plaint, the defendants made part payment of amount on 04th September, 2019. However, a balance amount of Rs. 4,28,51,572/-, remains outstanding.

32. Thus, the outstanding amount of Rs. 4,28,51,572/- is payable by defendants to plaintiff no. 2, along with interest @ 15% per annum from 04th September, 2019 till date of actual payment. Further, the defendants are also liable to pay Rs. 16,70,499/- for delay in payment of the amount of Rs. 4,89,74,465.70/- from 13th June, 2019 till 04th September, 2019, alongwith interest @ 15% per annum as *pendente lite* and future interests till date of actual payment.

33. Thus, the present suit is decreed in favor of plaintiff no. 1 for a sum of Rs. 15,29,879/-, alongwith interest @ 15% per annum as *pendente lite* and future interests till date of actual payment.

34. The present suit is decreed in favor of plaintiff no. 2 for a sum of Rs. 4,28,51,572/-, alongwith interest @ 15% per annum from 04th September, 2019 till date of actual payment. Further, plaintiff no. 2 is also entitled to Rs. 16,70,499/-, alongwith interest @ 15% per annum as *pendente lite* and future interests till date of actual payment.

35. Cost of the suit is decreed in favor of the plaintiffs and against the defendants.

36. For the purposes of calculation of actual costs, the plaintiffs are directed to file their bill of costs in terms of Rule 5 of Chapter 23 of the Delhi High Court (Original Side) Rules, 2018. The same shall be done by the plaintiffs within a period of four weeks, from today.

37. For this purpose, the representatives of the plaintiffs shall appear before the Joint Registrar (Judicial), who shall determine the actual costs



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incurred by the plaintiffs in the present litigation.

38. List before the Joint Registrar (Judicial) for computation of costs on 13th March, 2026.

39. Decree sheet be prepared accordingly.

40. The present suit, along with pending applications, is disposed of in the above terms.

**MINI PUSHKARNA
(JUDGE)**

FEBRUARY 06, 2026/au