



2026:DHC:9318-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of decision: 15.10.2026**# **CNR No. DLHC010010792026**+ **CUSAA 3/2026 & CM APPL. 2833/2026****COMMISSIONER OF CUSTOMS AIR CARGO COMPLEX****(IMPORT) Appellant****Through: Mr. Arjun Malik, SSC.****versus****SPECTRO LAB EQUIPMENTS PVT LTD Respondent****Through: Counsel appearance not given.****CORAM:****HON'BLE MR. JUSTICE AVNEESH JHINGAN****HON'BLE MS. JUSTICE SHAIL JAIN****AVNEESH JHINGAN, J. (ORAL)****CM APPL. 2832/2026**

1. The appeal under Section 130 of the Customs Act, 1962 filed against the order dated 29.01.2025 of the Customs, Excise and Service Tax Appellate Tribunal, New Delhi (hereinafter 'the tribunal'), is accompanied by the application seeking condonation of 154 days delay.

2. As per the pleadings in the application, the impugned order was received by the appellant/applicant on 13.02.2025 and this appeal was filed on 09.01.2026.

3. Learned counsel for the appellant/applicant contends that on 26.06.2025 the complete case file was handed over to the counsel (hereinafter referred to as 'earlier counsel') but neither the appeal was filed nor the information was given to the applicant-department. The



submission is that on 16.10.2025 the file was marked to the present counsel. After obtaining some more documents from the appellant-department the appeal was filed.

4. Learned counsel for the non-applicant opposes the condonation application and contends that no reasonable explanation is pleaded for condoning the delay.

5. It took more than four months to the applicant-department after receipt of the impugned order to handover the file to the earlier counsel. Despite having its own panel of counsel the department chose neither to disclose the details of the earlier counsel nor to file an affidavit of the counsel in support of the application.

6. Be that as it may after handing over the file to the earlier counsel on 26.06.2025, there is no pleadings that the applicant-department ever inquired the status of the appeal from the earlier counsel. It is not pleaded as to when the file was retrieved from the earlier counsel, it only states that the file was handed over to the present counsel on 16.10.2025.

7. On one hand, it is pleaded that a complete file was handed over to the earlier counsel whereas the counsel has argued that even after the receipt of the file, certain documents were required and hence it took time to file the appeal. The contradiction is writ large.

8. The law is well-settled that a public sector undertaking/Government department taking its own sweet time to move the file at a leisure pace cannot be a ground for condoning the delay. In ***Postmaster General v. Living Media India Ltd., (2012) 3 SCC 563***, the Supreme Court



held that Government departments are equally bound by the law of limitation and that administrative negligence or inaction in the absence of a plausible and acceptable explanation, cannot constitute sufficient cause for condonation of delay. The relevant para is as under:

“28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge



delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

(emphasis supplied)

9. The Supreme Court in ***State of Bihar v. Deo Kumar Singh, (2022) 16 SCC 483*** considering the decision in ***Chief Post Master General (supra)***, held that condonation of delay is no more admissible on the pretext of lethargic working of Government.

10. The period from 26.06.2025 to 15.10.2025 is simply brushed aside by shifting the blame on the earlier counsel even the pleadings are vague and unsubstantiated. The Supreme Court in ***Rajneesh Kumar v. Ved Prakash, 2024 SCC OnLine SC 3380*** has held that for an inordinate delay the entire blame cannot be shifted upon learned counsel. The relevant paras as under:

“10. It appears that the entire blame has been thrown on the head of the advocate who was appearing for the petitioners in the trial court. We have noticed over a period of time a tendency on the part of the litigants to blame their lawyers of negligence and carelessness in attending the proceedings before the court. Even if we assume for a moment that the concerned lawyer was careless or negligent, this, by itself, cannot be a ground to condone long and inordinate delay as the litigant owes a duty to be vigilant of his own rights and is expected to be equally vigilant about the judicial proceedings pending in the court initiated at his instance. The litigant, therefore, should not be permitted to throw the entire blame on the head of the advocate and thereby disown him at any time and seek relief.

11. In the aforesaid context, we may refer to a decision of this Court in the case of ***Salil Dutta v. T.M. & M.C.***



Private Ltd., (1993) 2 SCC 185, wherein this Court observed as under:—

“8. The advocate is the agent of the party. His acts and statements, made within the limits of authority given to him, are the acts and statements of the principal i.e. the party who engage him. It is true that in certain situations, the court may, in the interest of justice, set aside a dismissal order or an ex parte decree notwithstanding the negligence and/or misdemeanour of the advocate where it finds that the client was an innocent litigant but there is no such absolute rule that a party can disown its advocate at any time and seek relief. No such absolute immunity can be recognized. Such an absolute rule would make the working of the system extremely difficult. The observations made in Rafiq [(1981) 2 SCC 788 : AIR 1981 SC 1400] must not be understood as an absolute proposition. As we have mentioned hereinabove, this was an on-going suit posted for final hearing after a lapse of seven years of its institution. It was not a second appeal filed by a villager residing away from the city, where the court is located. The defendant is also not a rustic ignorant villager but a private limited company with its head office at Calcutta itself and managed by educated businessmen who know where their interest lies. It is evident that when their applications were not deposed of before taking up the suit for final hearing they felt piqued and refused to appear before the court. May be, it was part of their delaying tactics as alleged by the plaintiff. May be not. But one thing is clear they chose to non-cooperate with the court. Having adopted such a stand towards the court, the defendant has no right to ask its indulgence. Putting the entire blame upon the advocate and trying to make it out as if they were



totally unaware of the nature or significance of the proceedings is a theory which cannot be accepted and ought not to have been accepted.

(emphasis supplied)

11. The pleadings in the application are general in nature, giving no reasonable cause for condoning the delay. The pace of handing over the file to the earlier counsel and failure to pursue the matter is the reason pleaded for condoning the delay. The Supreme Court in ***Pathapati Subba Reddy v. Collector (LA)*, (2024) 12 SCC 336** has held that there has to be a sufficient cause for condoning the delay and condonation cannot be done mechanically. The relevant paras are as under:

“18. In *Collector (LA) v. Katiji* [*Collector (LA) v. Katiji*, (1987) 2 SCC 107 : (1987) 62 Comp Cas 370 : AIR 1987 SC 1353] , this Court in advocating the liberal approach in condoning the delay for “sufficient cause” held that ordinarily a litigant does not stand to benefit by lodging an appeal late; it is not necessary to explain every day's delay in filing the appeal; and since sometimes refusal to condone delay may result in throwing out a meritorious matter, it is necessary in the interest of justice that cause of substantial justice should be allowed to prevail upon technical considerations and if the delay is not deliberate, it ought to be condoned. Notwithstanding the above, howsoever, liberal approach is adopted in condoning the delay, existence of “sufficient cause” for not filing the appeal in time, is a condition precedent for exercising the discretionary power to condone the delay. The phrases “liberal approach”, “justice-oriented approach” and cause for the advancement of “substantial justice” cannot be employed to defeat the law of limitation so as to allow stale matters or as a matter of fact dead matters to be revived and reopened



by taking aid of Section 5 of the Limitation Act.

25. In *Basawaraj v. LAO* [*Basawaraj v. LAO*, (2013) 14 SCC 81] , this Court held that the discretion to condone the delay has to be exercised judiciously based upon the facts and circumstances of each case. The expression “sufficient cause” as occurring in Section 5 of the Limitation Act cannot be liberally interpreted if negligence, inaction or lack of *bona fide* is writ large. It was also observed that even though limitation may harshly affect rights of the parties but it has to be applied with all its rigour as prescribed under the statute as the courts have no choice but to apply the law as it stands and they have no power to condone the delay on equitable grounds.”

(emphasis supplied)

12. At the cost of repetition, the application has been filed in a cursory manner without pleading the details and is vague.

13. Consequently, there is no reasonable explanation for condoning the delay of 154 days.

14. The application is dismissed.

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15. Accordingly, the appeal also stands disposed of.

AVNEESH JHINGAN, J

SHAIL JAIN, J

OCTOBER 15, 2026/jk

Reportable: **Yes**