

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

I.A. No. 7489 of 2025

In

Comp. App. (AT) (Ins) No. 1952 of 2025

IN THE MATTER OF:

Kotak Mahindra Bank Ltd.

...Appellant(s)

Versus

**Naren Sheth, The RP of DBM Geotechnics &
Construction Pvt. Ltd. & Ors.**

...Respondent(s)

Present:

For Appellant : Mr. Nakul Mohta, Ayush Kashyap, Rohit K. Debnath,
Adv.

For Respondents : Mr. J. Rajesh, Ms. Pallavi Pratap, Anupriya Dixit, Md.
Arsalan Ahmed, Yashwardhan Aggarwal, Ali Abbas
Masoodi, Adv. for R1
Mr. Harshit Khare, Ayuj Agrawal, Adv. for SBI

ORDER
(Hybrid Mode)

Per: Barun Mitra, Member (Technical)

I.A. No. 7489 of 2025 is an application filed by the Appellant praying for condonation of 112 days' delay in re-filing of Company Appeal (AT) (Ins) No. 1952 of 2025.

2. It is the submission of the Appellant that the delay occurred due to defects pointed out by the Registry in the appeal petition which was not only voluminous but contained documents which were illegible and required re-scanning, re-typing and re-compilation. The principal reason attributed for the delay was the impediments faced in the retrieval of certain original documents located in Mumbai which were not readily traceable. This resulted in 112 days delay in re-filing despite diligent and bonafide efforts having been

made by the Applicant in curing the defects. The relevant excerpts from the pleadings made by the Applicant are as reproduced below:

“3. It is respectfully submitted that after filing the Appeal, the Registry pointed out several defects requiring correction. The Appeal contains multiple voluminous annexures, including forensic audit-related material, minutes of CoC meetings, correspondence exchanged during CIRP, and subsequent IBBI disciplinary orders. Several of these documents were not fully legible and required rescanning, re-typing, and re-compilation to satisfy the Registry’s requirements.

4. The process of curing the defects required the Appellant to retrieve documents from internal archives and match them with the CIRP record, many of which were not readily available in legible form. Further, the original documents which were clear and required for the purpose of the present Appeal were largely situated in Mumbai, and due to the IA No. 1000 of 2021 being sub-judice for a long period of time, the original records were not easily traceable. This necessitated coordination between different internal departments of the Appellant, resulting in unavoidable administrative delay.

5. It is further submitted that the Registry’s objections required re-pagination, restructuring of the index, cross-referencing of annexures, and preparation of typed copies of multi-page audit records and correspondence. The said process took considerable time despite diligent efforts on the part of the Appellant.”

3. Notice was issued by this Tribunal on 23.12.2025 in respect of the present I.A. and the Respondent granted time to file reply to the Application seeking condonation of delay in re-filing. The order reads as under:

“.....Notice be issued to the respondents in the amended memo of parties in I.A. No. 7489 of 2025 praying for condonation of delay of 112 days in re-filing of the appeal. Reply be filed within three weeks. List on 03rd February, 2026.”

4. Pursuant thereto, reply has been filed by the Respondent opposing the Application for condonation of delay in re-filing. Reply has been filed by the Respondent to the re-filing delay condonation application of the Applicant. In

the reply, the Respondent has opposed the grounds of condonation cited by the Applicant by holding them to be bald and vague assertions and submitted as below:

3. It is respectfully submitted that the Hon'ble Appellate Tribunal has reiterated in a catena of judgements that delay in re-filing of the memo of appeal can only be condoned if it is sufficiently explained. However, in the present case the Appellant neither has sufficiently explained the delay nor has provided any cogent reasons for the condonation of the delay. It is submitted that it is no longer res integra that every defect raised by the Registry must be explained and if the justification provided by the Appellant is not reasonable, then such an application along with the appeal must be rejected at the threshold. In this regard, the Respondent would seek the kind leave of the Hon'ble Court to place their reliance on the following judgements:

a. Technio Business Solutions vs Ancare Management Pvt. Ltd. 2025 SCC OnLine NCLAT 1240.

b. Lakhani Realty LLP vs Kailash Shah RP of Jaatvedas Constructions Co. Pvt. Ltd. 2025 SCC OnLine NCLAT 1204.

c. Shri B. Mahesh vs Mr. Abhay Narayan Manudhane in I.A. No. 1527 of 2025 in Company Appeal (AT) (Ins.) No. 419 of 2025.

d. Bimla Maheswari vs Bank of Baroda and Anr. in I.A. No. 13 of 2025 in Company Appeal (AT) (INS.) No. 25 of 2025.

5. We have also heard the submissions made by the Learned Counsels for both the parties and perused the material on record. The question which falls for determination is whether the Applicant has made out sufficient cause to explain the 112 days' delay in re-filing of the Appeal for condonation thereof.

6. It is the case of the Applicant that after filing of this Appeal, the Registry had pointed out several defects which required rectification. Since the appeal petition comprised of voluminous annexures including forensic audit material, minutes of CoC meetings, IBBI disciplinary orders etc. and many of

these required to be re-scanned and re-typed, the whole process was a time-consuming exercise. Additionally, compliance with the Registry's procedural objections regarding re-pagination, index-restructuring, cross-referencing of annexures etc. needed time for compliance. To cap it all, it also entailed retrieval of original documents. As these documents were not easily traceable since they were lying in Mumbai, this further compounded the delay. Hence, despite the best of endeavours, curing of these defects took a lot of time and therefore, this delay having been occasioned by genuine reasons need to be construed liberally in the interest of justice. It was further contended that on similar grounds of distance coming in the way of timely search of original records, the Hon'ble Apex Court in **CA Ramachandra Dallaram Choudhary vs. Adani Infrastructure & Developers Pvt. Ltd. in Civil Appeal No. 5106 of 2023** had over-ruled the decision of this Tribunal in not allowing refiling delay condonation of 115 days and held that a liberal approach ought to be adopted while considering applications for condonation of delay so that matters are decided on merits. In the present case too, since the Applicant could not trace some of the original records, the 112 days delay should be condoned. It was therefore asserted that since present is a case where the delay was caused by practical difficulties, the same needs to be given due consideration and the delay condoned so that the cause of substantial justice is well served. It was contended that the explanation offered constituted sufficient cause to justify the refiling delay, the delay should be condoned and let the matter be decided on a contested hearing.

7. Repelling the grounds for delay condonation raised by the Applicant, the Respondent vehemently contended that these explanations are devoid of

merit; lack in bonafide and is wholly unsupported by any cogent material. The grounds of re-pagination, restructuring of appeal paper book, compilation of annexures, re-scanning of documents and retrieval of records from different locations relied upon by the Applicant are vague, routine and procedural in nature and they do not constitute sufficient cause for condoning such an inordinate and protracted delay of 112 days. It is further submitted that no defect sheet has been placed on record nor has any specific defect been identified, the redressal of which required so much time. The Applicant having failed to demonstrate due diligence and promptitude on their part clearly reflected negligence in prosecuting the appeal. Reliance was placed on the judgment of this Tribunal in ***Dhanlaxmi Bank Limited Vs. Ritu Rastogi & Ors. in CA(AT)(Ins) No. 2131 of 2024*** to contend that in the absence of satisfactory explanation for the period during which defects remained uncured, such delay cannot be condoned as it reflects lack of diligence. Reliance was further placed on the judgement of this Tribunal in ***Govardhan Nirman Pvt. Ltd. Vs. Vaibhav Khandelwal & Anr. in CA(AT)(Ins) No. 1524 of 2024***, wherein it has been held that delay in re-filing can be condoned only if the Tribunal is satisfied that the reasons cited were beyond the control of the Applicant. Additionally, reliance is placed on another decision of this Tribunal in ***Employees Provident Fund Organisation Vs. H.L. Buildwell Pvt. Ltd. in CA(AT)(Ins) No. 1700 of 2024***, wherein this Tribunal had refused to condone delay in re-filing by observing that allowing such delay without convincing reasons would defeat the time bound insolvency resolution process envisaged under the IBC.

8. Coming to our analysis, in our considered view, the decisive factor in condonation of re-filing delay is not as much the length and span of delay but the presence of sufficient and satisfactory cause to justify the explanation. We nevertheless cannot afford to ignore that it is well recognised that the statutory scheme of IBC mandates expeditious and time-bound adjudication. There is a need to bring about finality and certainty in litigation in IBC related matters as this Code has time-bound resolution as one of its primary and central objective. Re-filing delay can be condoned only when the Applicant can successfully demonstrate that the causes of delay were beyond its control. From the various judgments of this Tribunal relied upon by the Respondent, we clearly notice that this Tribunal has consistently held that merely by adverting to routine reasons like re-pagination, formatting issues, compilation of annexures/documents etc. cannot justify prolonged and unexplained delay in curing defects. In the present case, the explanation furnished by the Applicant is that their efforts were lost in a maze of generalised and routine internal administrative processes. Be that as it may, no defect sheet has been brought on record nor the specific defects pointed out by the Registry been disclosed nor any date-wise chronology of steps/measures taken to cure the defects have been furnished nor any material placed on record to show as to on which dates documents/records were sought, traced, rescanned, typed or recompiled. In absence of such particulars, this Tribunal is unable to assess whether the delay was genuinely unavoidable or whether the Appellant remained inactive and inert for substantial periods for unexplained reasons. There is force in the contention of the Respondent that most of the documents annexed with the Appeal were either electronic records or orders already

available on record, and therefore did not require any elaborate exercise of retrieval or reconstruction. Out of the annexures filed, only a limited number of documents pertained to original records, and therefore, the explanation that re-compilation and pagination consumed 112 days is ex facie unreasonable. The explanation that certain original records were situated in Mumbai or were not readily traceable also does not persuade us. The Respondent is not off the mark in contending that the Appellant cannot seek condonation on the basis of a generalized plea of logistical inconvenience and related difficulties, particularly when the Appeal was already filed and what remained to be done was curing of defects. This cannot legitimately explain a delay of as many as 112 days to invoke our discretion in favour of the Applicant's plea for refiling delay condonation. We are, therefore, constrained to hold that the explanation offered is insufficient to warrant condonation of the delay.

9. It is the case of the Applicant that even though there is a delay of 112 days in re-filing the Appeal, the same deserves to be condoned by adopting a liberal approach in the interest of justice by relying on the judgement of the Hon'ble Apex Court in ***Dallaram Choudhary judgement supra***. There can be no quarrel with the above proposition laid down by the Hon'ble Supreme Court that a liberal approach may be adopted in appropriate cases. However, we cannot be oblivious of the fact that the Hon'ble Supreme Court in paragraph 14 of the said judgment has clearly observed that the said decision is not to be treated as a judicial precedent and that condonation of delay is to be decided on the facts and circumstances of each case. The Tribunal is, therefore, required to satisfy itself that sufficient cause and special

circumstances exist warranting such condonation. In the present case, for reasons already noticed in the preceding paragraph, we reiterate that the explanation furnished by the Applicant is general in nature, unsupported by material particulars and does not demonstrate due diligence on the part of the Appellant to cure the defects. Hence, the said judgment does not advance the case of the Applicant and the delay of 112 days in re-filing cannot be condoned. To our minds, the balance of convenience and equity therefore does not tilt in favour the Applicant. We do not find that any unavoidable or exceptional circumstance had come in the way of the Applicant which prevented them from re-filing their application in a timely manner.

10. Sufficient grounds not having been made out to justify the re-filing delay of 112 days, IA No. 7489 of 2025 is rejected. Consequent upon the dismissal of IA for condonation of delay in re-filing, the Memo of Appeal is also rejected. No costs.

**[Justice Ashok Bhushan]
Chairperson**

**[Barun Mitra]
Member (Technical)**

**Place: New Delhi
Date : 10.04.2026**

Abdul