

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

I.A. No. 2531 of 2025

in

Company Appeal (AT) (Ins) No. 659 of 2025

IN THE MATTER OF:

**Pankaj Harilal Valia & Anr.
(Promoters and Ex-directors of Corporate Debtor,
Hardik Industrial Corporation Pvt. Ltd.)**

...Appellants

Versus

**Kiran Shah,
Liquidator for Hardik Industrial Corporation Pvt. Ltd.**

...Respondents

Present:

For Appellant : Mr. Rajesh Bohra, Advocate.

For Respondents : CA Kiran Shah, Advocate.

O R D E R
(Hybrid Mode)

Per: Barun Mitra, Member (Technical)

The present application IA No. 2531 of 2025 is an application praying for condonation of 149 days delay in refiling of the Company Appeal (AT)(Ins) No. 659 of 2025.

2. Notice was issued in respect of the above IA by this Tribunal vide order dated 11.07.2025 which reads as under:-

“11.07.2025: I.A. No. 2531/2025

1. Issue notice on refiling delay condonation application. Appellant to provide mobile nos./ e-mail address of the Respondents. Notice be issued through e-mail or any other available mode. Requisites along with process fee be filed within three days.

2. Let Reply be filed within two weeks.

List on 29th July, 2025.”

3. The Applicants have offered the following explanation in paragraphs 3 to 8 in their application justifying the refiling delay which is as extracted below:-

3. While scrutinizing the appeal papers and Application, Registry of this Hon'ble Authority found some defects, which were informed to the Appellant vide letter dated 12.11.2024.

4. The above defects were required to be removed within seven days from date of the above letter, cl expired on 19.11.2024.

5. It may kindly be noted that the counsel of the Appellants could not instruct for removal of defects in time due to personal difficulty.

6. In view of the above, the defects could not be removed within the stipulated time due to the reasons stated above, which were beyond their control.

7. That therefore, we are now filing the requisite documents and removing the defects as observed by the Registry of this Hon'ble Authority. There is delay in doing so for 149 days.

8. Since the delay in removing the defects is not intentional and purely circumstantial the period of delay may please be condoned by this Hon'ble Appellate Authority in the interest of natural justice."

4. In support of the above pleadings, submission was made by the Ld. Counsel that the delay had occurred due to his personal difficulties and therefore it would be unfair if the interests of the litigant-client has to suffer on account of lapses on the part of the lawyer.

5. The Ld. Counsel for the Respondent opposed the condonation of refiling delay application on the grounds that the Applicant has not indicated any reasonable or sufficient cause to substantiate the refiling delay of 149 days. Articulating the background of the instant Appeal, it was submitted that the

Appeal has been filed against recovery ordered by the Adjudicating Authority in respect of transactions undertaken by the Applicants which attracted Section 43 of IBC.

6. We have heard the learned counsels of both parties and perused the records carefully.

7. When we look at the explanations offered in the IA No. 2531 to explain the delay, we find that it has been simply couched as “personal difficulty” without making any further elaboration. During the hearing before us, the Ld. Counsel for the Applicant threw light on the purported “personal difficulty” and submitted that the resultant refiling delay was on two counts, firstly, distance between Ahmedabad and Delhi which created co-ordination bottleneck and secondly, because of his frequent illness.

8. It goes without saying that the law with regard to condonation of refiling delay is well settled in that sufficient and reasonable cause has to be shown by the Applicant seeking condonation of refiling delay in IBC matters. It needs no emphasis that IBC is a special legislation design to resolve insolvency and bankruptcy cases in a timely and efficient manner. Adherence to timelines enjoy a place of prominence in the Statement of Object and Reasons of IBC as it imparts certainty and predictability to the resolution frame work. For the process of resolution including liquidation to remain efficient and effective, we need to act against unjustified delays or inefficiencies to prevent value deterioration and enhanced cost. Therefore, refiling delays can only be permitted if there are valid reasons for doing so.

9. This brings us to the question whether the reasons put forth in the present case to explain the refiling delay is genuine or specious. When we look at geographical distance between Ahmedabad and Delhi as the first reason attributed for the delay, the ground does not appear very convincing to us since no averment has been made as to what logistical handicaps came in the way and what extraordinary efforts had to be made which led to consuming 149 days to successfully cure the defects. This excuse appears to be all the more perfunctory since e-filing facilities allows access to the Registry of this Tribunal digitally bridging the physical divide. Coming to the second ground for condonation, we notice that no medical certificates have been placed on record to support the claim of indisposition of health of the counsel. Further, nothing has been placed on record to show that the Applicants had seriously pursued the matter with their counsel or with the Registry to know about the updated status of the appeal filed by them. We feel that any bonafide litigant placed in a similar situation would have followed up the matter with their lawyer to appraise themselves with the progress of court proceedings and not remained dormant for such a long period as in the instant case. Had the Applicants been actually serious about protecting their cause, they would have shown a higher degree of alertness in chasing the matter with their counsel. In such circumstances, we find that both the litigant as well as their counsel have displayed inaction and dereliction on their respective part in removing the defects on time. We also feel that this is not a case where an innocent litigant

is being put to prejudice on account of lapse on the part of the lawyer but is only a guise to cover up the inordinate delay in curing the defects.

10. For the reasons stated above, we find the litigant and their counsel both to be grossly negligent in remedying the procedural defects pointed out by the Registry. During the 149 days taken to cure the defects, the liquidation process would have reached a rather advanced stage and therefore it does not commend us to show leniency in allowing the refiling delay condonation to disturb the ongoing liquidation.

11. In sum, the grounds cited for seeking delay condonation has failed to convince us in allowing the 149 days delay in refiling of the appeal. The refiling delay condonation application is rejected. Consequently, memo of appeal and all related I.As stand rejected.

**[Justice Ashok Bhushan]
Chairperson**

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

**Place: New Delhi
Date: 05.08.2025**

Harleen/Abdul