NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

I.A. No. 3268 of 2026
in
Company Appeal (AT) No. 184 of 2026

IN THE MATTER OF:

Naresh Gupta & Anr. **...Appellant(s)**

Versus

Anupam Mahajan & Ors. **...Respondent(s)**

Present:

For Appellant : Mr. Abhijeet Sinha, Sr. Advocate with Mr. Sumit K. Batra and Mr. Manish Khurana, Advocates.

For Respondents : Mr. Harshal Kumar, Advocate.

WITH

I.A. No. 3269 of 2026
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O R D E R
(Hybrid Mode)

INDEVAR PANDEY, MEMBER (T)

INTRODUCTION

1. These two appeals have been filed by **Naresh Gupta and Neeraj Gupta**, Appellants herein, against Anupam Mahajan and 4 Others. The first appeal Company Appeal (AT) No. 184 of 2026 has been filed aggrieved against the order passed in **C.A. No. 754 of 2018 in C.P. No. 145 (ND)/2018**, on **22.07.2025** by the NCLT, New Delhi, Court IV, whereby the Appellants' application seeking waiver under the proviso to Section 244 of the Companies Act, 2013 was rejected and, consequently, the Company Petition was too dismissed at the threshold.

2. The connected Company Appeal (AT) No. 185 of 2026 has been filed by the same set of Appellants, namely **Naresh Gupta and Neeraj Gupta**, against the same set of Respondents as in the earlier company appeal. In this case the Appellants are aggrieved by the order passed by Ld. NCLT, New Delhi, Court-IV in **C.A. No. 573 of 2018 in C.P. No.145 (ND)/2018**, on **22.07.2025.** In this case the Respondent Nos. 1, 2 & 3 has filed an application C.A. No. 573 of 2018 under Section 244 of Companies Act challenging the maintainability of the petition filed by the Petitioners under Section 241 of the Companies Act, 2013. The said application was dismissed by the Ld. Adjudicating Authority, as having been rendered infructuous, in view of dismissal of petitioner's CA No. 754 of 2018 seeking waiver of eligibility requirements under Section 244 of the Companies Act, 2013.

3. As the appellants are aggrieved by the order passed by LD. Adjudicating Authority in C.A. No. 754 of 2018 and C.A. No. 573 of 2018 in C.P. No. 145 (ND)/ 2018, hence these two appeals have been filed under Section 421 of the Companies Act, 2013 against the aforesaid orders.

4. Brief facts of the case necessary to decide these Appeals are as under:

i. Adjudicating Authority passed the impugned order on 22.07.2025 in C.A. No. 754 of 2018 preferred in C.P. No. 145 (ND)/2018, rejecting the Appellants' application for waiver under Section 244 of the Companies Act, 2013 and thereby effectively bringing the underlying proceeding of the Company Petition to an end at the threshold.

ii. Adjudicating Authority had passed the impugned order on 22.07.2025 in C.A. No. 573 of 2018 in C.P. No. 145 (ND)/2018, dismissing the application of the petitioners who were the Respondent Nos. 1, 2 & 3 in the company petition, under Section 244 of Companies Act, 2013 challenging the maintainability of the petition filed by the Petitioners under Section 241. The said application was dismissed by the Ld. Adjudicating Authority as infructuous, in view of dismissal of petitioner's CA No. 754 of 2018 seeking waiver of eligibility requirements under Section 244 of the Companies Act, 2013.

iii. Both the Appeals were originally e-filed before this Tribunal on 04.09.2025, which was within the prescribed period of limitation. The Registry scrutinised the memo of appeal on 08.09.2025 and intimated the defects to the Appellant on the very same day. The Appellants were given seven days' time to rectify the defects as per the NCLAT Rules.

iv. The defects marked by the Registry were not cured immediately despite the embargo of Rule 26 of NCLAT Rules, and the Appellants ultimately re-filed the Appeal only in March 2026, i.e., several months after the original filing of the Company Appeal on 04.09.2025. The appeal record itself shows that the present Appeal was re-filed only in March 2026 after curing the defects. However, Registry pointed out certain more defects in the memo of appeal. The Appellant thereafter refiled the appeal on 30.04.2026 after curing all the defects. Therefore, there was a delay of 227 days in refiling of the appeal.

v. In the present proceedings therefore, we are concerned with the delay of 227 days in refiling since the date of scrutiny on 08.09.2025. The Appellant has filed I.A. No. 3268 of 2026 in CA (AT) No. 184 of 2026 seeking condonation of delay in refiling the appeal. Similarly, I.A. No. 3269 of 2026 has been filed in CA (AT) No. 185 of 2026 seeking the same relief.

Submissions of the Appellant

5. Ld. Counsel for the Appellants submits that the accompanying Appeals under Section 421 of the Companies Act, 2013 has been preferred against the separate orders both dated 22.07.2025 passed by the Hon'ble NCLT, New Delhi Bench, in C.A. No. 754 of 2018 in C.P. No. 145/241(ND) of 2018 and C.A. No. 573 of 2018 in the C.P. No. 145/241(ND) of 2018. The present application Nos. 3268/2026 in the first appeal and I.A. No.3269/2026 in the second appeal are confined to seeking condonation of delay in re-filing the appeal after removal of defects pointed out by the Registry.

6. He submits that both the appeals were originally filed on 04.09.2025, within the prescribed period of limitation. The present application, therefore, does not concern any delay in institution of the appeals, but only the subsequent delay in re-filing after the Registry marked defects. The sequence of events are identical in both the applications.

7. It is submitted that the defects were marked and the appeal papers were returned on 08.09.2025. Under Rule 26(2) of the NCLAT Rules, 2016, the defects were required to be cured and the papers re-presented within seven days, i.e. by 15.09.2025. Ld. Counsel submits that the appeal was ultimately re-filed on 11.03.2026. After excluding the permissible seven-day period under Rule 26(2), there was a delay of 226 days in re-filing, for which condonation is sought.

8. Ld. Counsel submits that the delay was neither deliberate nor intentional, but occurred due to compelling and bona fide circumstances, particularly the serious and continuing health issues of the Appellants, especially Appellant No. 1. These circumstances affected their ability to coordinate instructions, scrutinise corrected papers, execute documents and cure the Registry defects. He submits that Appellant No. 1, Mr. Naresh Gupta, had been under continuing medical evaluation and treatment for serious cardiac-related issues, including dense calcific plaques in the coronary arteries with significant luminal compromise, requiring continuing medical supervision and management. The relevant medical records have been annexed as Annexure A-9 of memo of appeal.

9. He further submits that Appellant No. 1 also suffered further medical complications and acute gastro-enteric illness during the relevant period, with medical advice for observation/admission. The pathology reports reflect continued medical examination and treatment, which cumulatively impaired his ability to attend to litigation formalities and coordinate the curing of defects.

10. It is the submission of the Appellants that the delay did not arise from any act of abandonment or want of diligence. Appellant No. 1 was under continuing treatment and Appellant No. 2 was also not in good health. The Appellants were required to attend consultations and investigations while coordinating with counsel for removal of objections and execution of affidavits. The delay was thus due to bona fide circumstances supported by the medical record.

11. Ld. Counsel submits that Appellant No. 2 was also suffering from health-related issues. As both Appellants were private individuals, their personal instructions, approvals, signatures and coordination with counsel were required for re-filing, and their simultaneous medical difficulties materially delayed the process.

12. Ld. Counsel submits that the appeal is not a routine filing but rather it arises from a long-drawn company dispute involving multiple pleadings, replies, rejoinders, interlocutory applications, order sheets and annexures. Curing the defects therefore required re-scrutiny of the record, fresh instructions, corrections, page-wise arrangement, attestation and preparation of complete re-filing sets.

13. He submits that, owing to the aforesaid medical difficulties, the Appellants could not complete the defect-cure process within the prescribed period despite due diligence. The delay was therefore occasioned by sufficient cause and circumstances beyond their control, and not by disregard of the process of this Hon'ble Tribunal. He submits that once the health conditions permitted, the Appellants undertook the necessary corrections, finalised instructions, reassembled the papers and re-filed the appeal on 11.03.2026 without further avoidable delay.

14. Ld. Counsel submits that Rule 26(2) of NCLAT Rules 2016, itself provides for return of defective documents and further action where defects are not cured within seven days, while Rule 26(3) empowers the Registrar, for sufficient cause, to allow reasonable time or extend the time for compliance. The Rules thus contemplate extension where sufficient cause exists, which, according to the Appellants, is established by their documented medical circumstances.

15. He relies upon the judgment in **"*Ajit Singh v. Telemax Links India Pvt. Ltd.*, M.A. No. 111 of 2018",** wherein this Hon'ble Appellate Tribunal condoned delay in re-filing where the appeal had originally been presented within time but was re-presented beyond the seven-day period under Rule 26(2), upon finding the explanation cogent. The Appellants submit that the present case stands on a stronger footing as exigent medical circumstances affecting both Appellants are documented. He submits that this Appellate Tribunal has adopted a compassionate approach in cases where delay in re-

filing was attributable to medical difficulties. The Appellants seek similar consideration in view of the medical circumstances placed on record.

16. Ld. Counsel also relies upon ***"Brahampal @ Sammay v. National Insurance Co., 2020 INSC 483",*** wherein the Hon'ble Supreme Court held that delay explained by illness, when properly supported, should not invite an inference of mala fide and that a hyper-technical approach to condonation is unsustainable. Though arising in a different statutory setting, the principle of a justice-oriented approach to bona fide illness is relied upon by the Appellants.

17. Ld. Counsel submits that no prejudice would be caused to the Respondents by condoning the delay, as the appeal was originally lodged within limitation and the present application concerns only procedural delay in curing defects and its consequent refiling. The Respondents would retain full opportunity to contest the appeal on merits.

18. Appellants further submit that grave and irreparable prejudice would, however, be caused to them if the delay is not condoned, as the accompanying appeal raises substantial and arguable questions concerning the impugned order under the proviso to Section 244 of the Act and the foreclosure of the Company Petition at the threshold.

19. Summing up Ld. Counsel argues that the application is bona fide and supported by sufficient cause. The delay resulted from the documented medical difficulties of both Appellants and the consequent inability to

complete the re-filing formalities within time. He therefore seeks condonation of the 226-day delay in the interest of substantial justice.

20. Ld. Counsel prays that this Appellate Tribunal may allow the present application, condone the delay of 226 days in re-filing the accompanying appeal, take the appeal on record and proceed with it in accordance with law, and pass such further or other orders as may be deemed fit in the facts and circumstances of the case.

ANALYSIS AND FINDINGS

21. We have heard the Ld. Counsel for Appellants and perused the documents available on record. In both the appeals the facts relating to delay in refiling of the appeal is absolutely identical, hence for brevity we are analysing the facts of first appeal only and the findings of the same would apply mutatis- mutandis to the second appeal.

22. The limited issue for determination in this case is whether there are sufficient grounds for condoning the delay of 226 days in refiling of the appeal or the appeal is liable to be dismissed on threshold due to such delay.

23. The impugned order was passed by the Adjudicating Authority on 22.07.2025 in C.A. No. 754 of 2018 in C.P. No. 145(ND)/2018, whereby the Appellants' application for waiver under Section 244 of the Companies Act, 2013 was dismissed. The Appellants thereafter filed the present appeal on 04.09.2025. The initial filing of the appeal was therefore within the prescribed period. However, the appeal was found defective by the Registry and memo of defects was communicated to the Appellants on 08.09.2025. As per the

NCLAT Rules, 2016 such rectification in the memo of appeal should have been done within seven days i.e; by 15.09.2025. According to the Appellants' own List of Dates, the appeal was re-filed only in March 2026, after curing the defects. We note from the records that the final date of the refiling before this Tribunal was 30.04.2026 and there was 227 days of delay in refiling.

24. Rule 26 of NCLAT Rules which deals with scrutiny of petition or appeal or document is extracted below:-

> ***"26. Endorsement and scrutiny of petition or appeal or document.-***
>
> *(1) The person in charge of the filing-counter shall immediately on receipt of appeal or document affix the date and stamp of the Appellate Tribunal thereon and also on the additional copies of the index and return the acknowledgement to the party and he shall also affix his initials on the stamp affixed on the first page of the copies and enter the particulars of all such documents in the register after daily filing and assign a diary number which shall be entered below the date stamp and thereafter cause it to be sent for scrutiny.*
>
> *(2) If, on scrutiny, the appeal or document is found to be defective, such document shall, after notice to the party, be returned for compliance and if there is a failure to comply within seven days from the date of return, the same shall be placed before the Registrar who may pass appropriate orders.*
>
> *(3) The Registrar may for sufficient cause return the said document for rectification or amendment to the party filing the same, and for this purpose may allow to the party concerned such reasonable time as he may consider necessary or extend the time for compliance.*
>
> *(4) Where the party fails to take any step for the removal of the defect within the time fixed for the same, the Registrar may, for*

reasons to be recorded in writing, decline to register the appeal or pleading or document."

25. The Appellants have relied on Rule 26(2) and Rule 26(3) of NCLAT Rule, 2016 to submit that Rule 26(2) provides for return of defective appeal or documents in case the defects are not clear within seven days the same is to be placed before the Registrar, who may pass appropriate orders. The Appellant in particular, relies upon Rule 26(3) which provides that Registrar may for sufficient cause return the said documents and allow such reasonable time for compliance to the party.

26. In accordance with Rule 26 of NCLAT Rules, the Appellants had filed the I.A. No. 3268/2026 in CA (AT) No. 184 of 2026 and I.A. No. 3269/2026 in CA (AT) No. 185 of 2026 seeking condonation of 226 days of delay in refiling of the respective appeals.

27. Ld. Registrar after hearing the Appellants passed the following order on 08.05.2026, which is extracted below: -

"8th May, 2026
(Hybrid Mode)

This is an application to extend the time granted for curing the defects.

The facts giving rise to present IA (re-filing) are that the Appellants e-filed the Memo of Appeal on 04.09.2025. The Office after scrutiny of the Memo of Appeal on 08.09.2025, intimated the defects to the Appellants on the same day. The Appellants re-filed the Appeal on 30.04.2026. It is stated in the IA that delay occurred due to serious and continuing health issues affecting the Appellants, particularly Appellant No.1. Appellant No.1 also suffered further medical complications and acute illness, and cumulative effect of such medical circumstances materially

impaired his ability to attend to litigation formalities and coordinate the curing of defects in the appeal papers. Appellant No2. was also suffering from health related issues during the relevant period. Hence, there is delay of 226 days in refiling the Memo of Appeal, so the same may be condoned.

Heard learned Counsel appearing for the Appellants and perused the averments made in the IA as well as Office report.

The Appellants were required to re-file the Memo of Appeal within seven days from the date of intimation of the defects. However, the Appellants re-filed the Memo of Appeal with a delay of 227 days, hence, the case may be placed before the Hon'ble Bench with defect for appropriate orders.

List the case before the Hon'ble Bench under the heading 'for admission with defect (fresh case)".

28. Ld. Registrar after hearing the Appellants directed that as the Appellants were required to refile the memo of appeal within seven days from intimation of defects by the Registry, but they have filed the memo of appeal with a delay of 227 days and hence the case should be listed before the Hon'ble Bench for passing appropriate orders.

29. The contention of the Appellant is that the Ld. Registrar was competent to extend the time period of compliance in this case as per the provisions of Rule 26(3) of NCLAT Rules. However, we note that such extension of time can only be permitted if there is sufficient cause shown by the Appellants. Ld. Registrar in this case has after going through the averments made in the IA and hearing the Ld. Counsel for Appellants referred the matter for appropriate orders by the Hon'ble Bench of this Appellate Tribunal.

30. The question before us is whether the Appellants have satisfactorily explained the substantial delay of 227 days between 15.09.2025 to 30.04.26. The Appellants have relied upon the medical records of the Appellants placed on record as **Annexure A-9** of memo of appeal to explain the delay.

31. We have gone through the medical reports placed by both the Appellants in Annexure-A9 of the appeal. We note that all papers relating to treatment of both the appellants involved "out-patient" consultation with doctors in different hospitals. The records do not show any treatment as indoor patient in any Hospital. In case of Mr. Naresh Gupta, the first such consultation in OPD during the period relevant for us i.e. from 15.09.2025, when the defect free appeal should have been filed, is dated 19.12.2025, which is more than three months from the date on which refiling delay starts. This prescription is for Acute Gastro Intestinal Infection which is one of the most common medical problems in the country. We have also seen the advice of Dr. Devindra Sehra of Maharaja Agarsen Hospital (Punjabi Bagh) for Mr. Naresh Gupta on 28.01.2026; where he has advised "Relaxed stress free lifestyle" (at page no. 854 of Vol-5 of APB). The records clearly do not reflect such serious illness or prolonged admission in Hospital, which could have prevented the Appellants from refiling the appeal in a reasonable timeframe.

32. The medical records do not explain the entire period from 15.09.2025 till March 2026, nor do they show that the Appellants were continuously unable to carryout physical and mental activities required to cure the defects and re-file the appeal. In the absence of a clear connection between the

medical condition and the entire period of delay, we are unable to accept the medical records as sufficient cause for condoning the delay.

33. The delay of 227 days is substantial and such a long period cannot be treated as a mere procedural lapse, particularly when no explanation covering this entire period has been placed on record. Once the Registry pointed out defects, it was for the Appellants to act with due diligence and remove them within the prescribed time. The fact that the appeal was initially filed within limitation does not, by itself, justify an unexplained delay of several months in making it compliant.

34. At this stage, the question is only whether sufficient cause has been shown for the delay in re-filing. Since the Appellants have not given any satisfactory explanation for the period from 15.09.2025 till 30.04.2026, there is no sufficient basis to exercise discretion in their favour.

35. The appellant has relied on ***"Ajit Singh v. Telemax Links India Pvt. Ltd., M.A. No. 111 of 2018"*** decided by this appellate Tribunal on 30.05.2018. In Ajit Singh's case the appeal was filed in time on 10.05.2018, after scrutiny the appeal was returned to the appellant on 15.05.2018. In accordance with Rule 26(2) of NCLAT Rules the appellant was supposed to refile the same within seven days i.e; by 22.05.2018. The appeal was refiled on 24.05.2018, the delay in re-filing in this case was only two days. Even for this period of two days, the Appellant had given a specific and continuous explanation. The record in that case showed the steps taken after the defects were pointed out, including communication with counsel residing at Nagpur, forwarding of the corrected documents, preparation of the requisite sets, the

difficulty in obtaining the signed hard copy, refusal by the Registry to accept the same, engagement of another counsel and subsequent re-filing. It was in these particular circumstances that the explanation was found cogent and the two days delay was condoned. In the present case, the Appellants have not placed any comparable sequence of steps or circumstances explaining the prolonged period of 227 days from 15.09.2025 till 30.04.2026. Thus, the factual basis on which the delay was condoned in Ajit Singh is absent in the present case, and the said decision does not assist the Appellants.

36. The second case relied upon by the Appellants is the judgment of Hon'ble Supreme Court in ***"Brahampal @ Sammay v. National Insurance Co., 2020 INSC 483".*** In this case, the delay under consideration was only 45 days, and the Court considered the illness relied upon by the party in the context of that relatively short period of delay. In the present case, the Appellants seek to explain a much longer period, commencing from 15.09.2025 and until 30.04.2026, a delay of 227 days. The medical records relied upon by the Appellants do not establish continuous incapacity throughout this entire period and do not explain why the defects in the appeal could not be cured and the appeal re-filed during the intervening period. The factual circumstances are, therefore, materially different, and the decision in *Brahampal* (supra) does not support condonation of the substantially longer and inadequately explained delay in the present case.

37. In view of the above, although the appeal was initially filed on 04.09.2025 within time, the subsequent delay in re-filing, extending up to April 2026, remains substantially and satisfactorily unexplained. The

Appellants have failed to show due diligence or sufficient cause for such prolonged delay.

38. In view of the findings above, the delay in re-filing is not liable to be condoned. The applications I.A. Nos. 3268/2026 & 3269/2026 seeking condonation of delay in re-filing are dismissed. Accordingly, both memo of appeals are also dismissed on the ground of delay in re-filing.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Arun Baroka]
Member (Technical)

[Indevar Pandey]
Member (Technical)

Place: New Delhi
Dated: 09.09.2026

Harleen
Pragya (LRA)