

NATIONAL COMPANY LAW APPELLATE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Company Appeal (AT) No. 326 of 2026

[Arising out of Order dated 08.12.2025 passed by the Adjudicating Authority
(National Company Law Tribunal, Mumbai Bench) in IA (Companies
Act)/242 (MB)2025 in CP/20(MB)2024]

IN THE MATTER OF:

RAJENDRA DEVIDAS PURANIK

Liquidator for M/S Brown
Packaging System Pvt. Ltd.
C 601, Dindoshi Omkar
Cooperative Society Ltd,
Shivdham Complex, General
A.k.Vaidya Marg, Malad East,
Mumbai 400097
Email:- rdpuranik@gmail.com
Mobile 9820127828

...Appellant

Versus

...Respondent

Present:

**For Appellant : Mr. Anoop Prakash Awasthi, Ms. Rushikanta Dash,
Advocates.**

Mr. Rajendra D. Puranik, Liquidator

J U D G M E N T

Per Justice Sharad Kumar Sharma, Member (Judicial)

1. The Instant Company Appeal has been preferred by the Appellant, who is Liquidator for M/s Brown Packaging Systems Pvt. Ltd. The challenge given by the Appellant is to the Impugned Order dated 08.12.2025 passed on **I.A. (Companies Act)/242(MB) 2025**, preferred in **C.P. No. 20(MB)/2024**, by virtue of which the learned Tribunal had partly allowed

the application filed by the Appellant, the Liquidator, and restricted the orders on the remuneration which were claimed to be payable to the Appellant and granted only for a sum of ₹4,00,000 + GST, in addition to the amount payable under Regulation 4 of the IBBI Liquidation Regulations. The grievance of the Appellant is that, instead of approving the remuneration as it stood approved by the contributories and the creditors in the minutes of the fifth meeting that was held on 23.10.2025, the Appellant contends that the amount paid to him runs contrary to the recommendations made in the fifth meeting held on 23.10.2025. Apart from it, it runs contrary to the provisions of the Companies Act, 2013, and the Companies (Winding Up) Rules, 2020, which prescribe for the parameters governing the fixation of the Liquidator's remuneration.

2. The instant Company Appeal had been preferred by the Appellant by instituting and e-filing of the same before the Registry of this Tribunal on 10.01.2026. The first scrutiny was conducted by the Tribunal on 16.01.2026, and the information pertaining to the rectification of the defects was supplied to the Appellant, as well as to his counsel at their email address on 16.01.2026 itself. However, the defects were not rectified in their totality; rather, partial defects were removed and the Appeal was refiled on 28.05.2026. It is thereafter that once again that the scrutiny was conducted on 29.06.2026. The defects which were left uncured were intimated was given to the Appellant by email communication at the email address of the counsel, and the intimation to the Appellant also. Despite this, when the defects were not rectified and, lastly, when the scrutiny was made on

07.08.2026, the same was intimated to the Appellant on 07.08.2026 vide the email communication too, but the defects were still not rectified. As a consequence thereto, the Registry has reported that there happens to be a delay of 202 days in refiling of the Company Appeal.

3. The aspects pertaining to the responsibility of rectification of defects and the consequential action which would follow are contemplated under Rule 26 of the NCLAT Rules. Rule 26 of the NCLAT Rules reads as under:-

“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.”

4. In fact, the Rules themselves contemplate that, in case the Appellant, after being notified of the defects by the Registry, fails to clear the defects within the prescribed timeframe of 07 days, it had been left open to the Registry to dismiss the Appeal on that ground itself.

5. In the present Company Appeal, the Appellant had filed an IA, being I.A. No. 6046 of 2026, seeking condonation of delay in refiling, and in support thereof, he has raised his contention to justify the inability is contained in paragraph no. 9 of the application.

“...9. That during the relevant period, the Advocate-on-Record was confronted with grave, exceptional and continuing medical circumstances concerning his aged mother, who is a senior citizen aged about 75 years and who was diagnosed with cancer and required continuous and intensive medical treatment. A true copy of the medical records of the applicant’s mother is annexed herewith and marked as Annexure-A.

10. That the Applicant/ Counsel-on-Record is the only and primary caregiver of his 75-year-old senior-citizen mother and is personally responsible for arranging, coordinating and attending to her medical treatment, hospital visits,

chemotherapy sessions, medical consultations, investigations and post-treatment care...”

6. In totality of the pleadings raised in the application for seeking condonation of delay in refiling, is taken into consideration, it is not because of the Appellant’s inability to rectify the defects, but rather the delay has been sought to be condoned; on the ground that the counsel’s mother was ailing and was under treatment, due of which the defects could not be rectified. It is not even that the affidavit which has been filed in support of the aforesaid IA has been filed by the counsel himself.

7. The filing of an affidavit in support of a delay condonation application, which may be a delay in refiling too, has had to be filed by the litigant himself, as the counsel cannot dilute his integrity by filing an affidavit in support of a delay condonation application on behalf of the litigant. One of the questions that would fall for consideration would be as to whether at all such an affidavit filed by the counsel of the Appellant could at all be taken into consideration for the purposes of condonation of an inordinate delay of 202 days. The professional ethics called for that the counsel is not to identify himself with the litigant. The litigant will have to stand on his own legs in order to explain the delay that has chanced in refiling. As inability of counsel cannot be inability of litigant to restrict him in rectifying the defects when most of work involved therein is only ministerial in nature, which could have undertaken by Appellant himself or with assistance by any other counsel.

8. Looking to the chronological intimation of the defects by the Registry, which started right from January, 2026, and if we see the schedule of treatment which the Appellant's counsel has given in the affidavit, it shows that the mother of the counsel has been under treatment from 09.02.2026 to 27.02.2026, and thereafter, various breakups of treatment have been given in paragraph No. 13. As far as these breakups of treatment are concerned there had been enough time during treatment period where defects could have been cured, since they exclusively relate to the ailment of the mother of the counsel for the Appellant, that cannot be borrowed to be taken into consideration for the purposes of explanation of delay in refiling at the behest of the Appellant, and that too for an inordinate delay of 202 days.

9. Besides thereafter, there is nothing on record, nor in the pleadings, that ever since filing of the Company Appeal on 10.01.2026, or even thereafter, when at various phases this Tribunal has intimated about the defects, the Appellant, who himself happens to be a liquidator had acted diligently to take steps to rectify defects, hence it would be deemed that the Appellant to be having sufficient knowledge about the implication of the delay in the proceedings under Section 421 of the Companies Act, 2013. Hence, it was expected that the liquidator, since he has sufficient knowledge about the modalities in which the proceedings are to be taken before the NCLAT, nothing precluded the Appellant himself from taking steps to rectify the defects within time. Not doing the same within the prescribed time period, which has been given under sub-Rules (3) and (4), Rule 26 of NCLT

Rules, 2016 the delay of 202 days cannot be condoned that too when it is unexplained, and that too on the pretext that the counsel's mother was ailing.

10. Nothing under law or procedure restricted the Appellant from carrying out or rectifying the defects, and that too particularly when it has been pointed out by the Registry of this Tribunal on several occasions about the defects. It cannot be presumed that the Appellant would have sat over the issue without attempting to rectifying the defects in refiling under an anticipation that the same would be rectified only as and when the counsel of the Appellant gets free from the treatment which he was undertaking of his mother.

11. Counsel's personal inability cannot be an inability of the Appellant to rectify the defects, and that too if we take into consideration the number of reports which have been given by the Registry and if it is compared with the schedule of treatment which has been given therein. There was sufficient gap in between periods wherein the Appellant could have coordinated with the counsel and should have rectified the defects. Because of the fact that there is no independent application or an affidavit seeking condonation of delay in refiling by the Appellant himself, the counsel's affidavit for seeking condonation of 202 days of delay cannot be read as to be an affidavit on inability of the counsel filed by the Appellant for condonation of delay in refiling, because even as on today, there is no affidavit or application filed by the Appellant seeking condonation of delay in refiling.

12. Since the delay is inordinate, unexplained, and attempted to be explained by borrowing the crisis of the counsel, the same cannot be accepted by us to condoned for 202 days of delay in refiling, that too when the so-called theory of treatment of the mother began much thereafter the recording of the first defect, i.e., it commenced from 09.02.2026. Even during the intervening period also from 16.01.2026 to 09.02.2026, the Appellant had sufficient time to coordinate with the counsel and should have rectified the defects, and he ought not to have waited for such a long period for rectification of the defects.

13. Hence, since the delay remains unexplained and this is inordinate too, the same does not deserve to be condoned. Accordingly, **I.A. No. 6046 of 2026** would stand rejected. As a consequence thereto, the **Company Appeal (AT) No. 326 of 2026** would stand dismissed.

[Justice Sharad Kumar Sharma]
Member (Judicial)

[Arun Baroka]
Member (Technical)

[Indevar Pandey]
Member (Technical)

NEW DELHI

18th September, 2026

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