

NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI

I.A. No. 991 of 2026 in Comp. App. (AT) (Ins) No. 291 of 2026

[Arising out of the Impugned Order dated 29.05.2025 passed by the Adjudicating Authority, National Company Law Tribunal, Mumbai Bench in C.P. (IB) No. 530 of 2018]

IN THE MATTER OF:

WALCHANDNAGAR INDUSTRIES LIMITED

Having its registered office at 3, Walchand Terraces,
Tardeo Road, Mumbai 400 034, Maharashtra
Email: sanchit.madge@walchand.com

...Appellant(s)

Versus

SWARAJ INDIA AGRO LTD.

Having its registered office at Plot Nimbhore, Taluka
Phaltan, District Satara, Maharashtra 415 523
Email: ranjeetsingh@swarajindia.co.in
rhnswaraj@gmail.com latifswaraj@gmail.com

...Respondent(s)

Present:

For Appellant : Mr. K. Datta, Sr. Adv. with Ms. Niharika Sharma, Adv.
For Respondents : Mr. Anuj Tiwari, Ms. Prachi Wazalwar, Ms. Shalini Basu, Mr. Vaibhav Vats, Mr. Sameer Mishra, Mr. S. Mishra, Adv.

ORDER
(Hybrid Mode)

Per: Barun Mitra, Member (Technical)

The present application I.A No. 991 of 2026 is an application praying for condonation of 193 days delay in refiling of CA (AT) (Ins) No. 291 of 2026.

2. When the appeal came up for hearing on 16.02.2026, the Ld. Sr. Counsel for the Appellant sought liberty to file an additional affidavit in support of the application praying for condonation of refiling delay.

3. In pursuance of the liberty granted by this Tribunal, the Applicant has filed an additional affidavit giving explanation for delay and outlined the dates on which defects were notified and removed which is as reproduced below:-

Date of Scrutiny	Date of curing defect and refiling	Delay after deduction of the 7 day period permitted for curing such defects
21.07.2025	28.07.2025	No delay
01.08.2025	25.11.2025	109 days
29.11.2025	18.12.2025	14 days
22.12.2025	28.01.2026	30 days
29.01.2026	29.01.2026	No delay

Basis the above tabular chart, it was claimed that keeping in mind that deduction of 7 days' period is permissible for removal at the end of each round of defects being removed, the total delay works out to 153 days and not 193 days.

4. It was further pointed out that the Applicant had corrected the first round of defects within the period of seven days and hence there was no delay as such. It was only when the second round of defects were pointed out on 01.08.2025 that a period of 109 days got consumed in curing the defects. The Registry had pointed out in their second notice of defects at serial no. 12 for filing of true typed copies of hand written pages and at serial no. 13 pointed out that documents filed in the Hindi language were required to be accompanied by English translation. The defects at serial no. 12 and 13 as conveyed by NCLAT Registry is as reproduced below:-

“12. Page no 1133, 1141, 1164,... etc and many more pages are filed handwritten. File its true typed copies..”

13. Page no 1142, 1148, 1149, ... etc and many more are filed in Hindi language. File its true translated typed copies in English language accompanied with original copies..”

5. Elucidating the fact that there were sufficient reasons for the delay in curing the second notice of defects, it was submitted that genuine, sincere and timely endeavours were made by the Applicant to remedy the defects at serial no. 12. It was stated that NCLAT Registry had not specifically indicated the handwritten pages which required to be substituted by typed copies but mentioned only three pages. Each time the typed copies were submitted, the Registry indicated more copies to be typed out and as this recurred, it became time consuming and added to the delay. It was also added that the Applicant had to procure legible copies from their old records to prepare true typed copies which was a protracted process as it entailed obtaining of source documents, verbatim typing followed by proof-reading. It was further added that the process of reconstruction of the non-digitised old records took a lot of time since the original project manager who was the primary custodian of these documents and had full knowledge of the transactions of the Applicant had also retired from the rolls of the Applicant which compounded the delay. Similarly, in the case of defects pointed out at serial no. 13 which required filing of translated copies of the vernacular documents in English, the Registry had again not exactly specified the pages which required translation but had only indicated three pages. Each time the defect was cured by the Applicant, the Registry pointed out the further pages which required to be translated from vernacular language to English. Given the voluminous nature of documents covered by serial nos. 12 and 13 which had to be either typed and/or translated, the whole process took a lot of time leading to delay. Further, the filing clerk also had to travel several times to Delhi to cure the defects to the satisfaction of the Registry. However, once the second notice of

defects got cured, the defects pointed out in the third and fourth round of notices had been expeditiously cured within a reasonable period of time.

6. The above submissions of the Applicant were vehemently contested by the Ld. Counsel for the Respondent stating that the delay of 193 days in refiling delay was inordinately long. The grounds cited to explain the refiling delay were mechanical and bald and lacked foundational basis. The averment made by the Applicant that the delay was bonafide and not intentional was bereft of substance. Perusal of the list of defects placed by the Applicant themselves at page 17 of their additional affidavit would show that most of the defects were routine, procedural defects such as unsigned master index, mistakes in pagination, blanks in pages, formatting errors, lack of payment proof, power of attorney issues etc. and had the Applicant been diligent these could have all been cured in one-go without avoidable delay. Furthermore, the explanation for delay offered by the Applicant with respect to translation of vernacular documents and typing out of hand-written documents on extraneous factors like absence of old employees familiar with the documents was a specious plea as these documents had always remained in possession of the Applicant and hence locating these documents could not have been such a big hurdle so as to take more than 100 days to remedy. Contention was raised by the Respondent that when the Applicant had e-filed the appeal after scanning the documents, the plea taken that the records were old and non-digitised leading to delay in record reconstruction lacked credibility. It was also contended that the Applicant has mischievously attempted to shift the blame for their own inefficiency and failure to cure the defects on the Registry. The persistence of defects despite repeated opportunities to cure the defects is indicative of lack of bonafide efforts on the part of the Applicant. It

was asserted that the delay was deliberate and formed a calculated strategy since the Applicant was pursuing parallel arbitration proceedings arising out of the same cause of action before the Hon'ble Bombay High Court and awaiting its outcome. The Applicant by merely making hollow assertion unsupported by cogent reasons that the delay was unintentional or procedural does not by itself constitute sufficient cause which demonstrate diligent efforts had been taken by the Applicant to cure the defects within a reasonable time.

7. We have heard the rival contentions of both the parties and perused the record.

8. It is well settled that refiling delay condonation application deserves to be handled in a liberal and lenient manner without being too pedantic. Be that as it may, the Applicant cannot be rightfully absolved of their responsibility to satisfy the Court by providing satisfactory and sufficient explanation to justify the delay particularly so when the magnitude of delay of 193 days is manifestly huge. Hence, what needs to be seen is whether the Applicant has satisfactorily established sufficient, coherent and credible defect-wise and date-wise explanation for the delay and if not, the condonation of refiling delay application deserved to be rejected.

9. This brings us to the explanation offered by the Applicant in explaining the major delay of 109 days pointed out by the Registry on 01.8.2025. The reasons put forth by the Applicant justifying the delay was that the NCLAT Registry did not specify with detailed particulars of the hand-written pages which required to be typed or the documents which needed translation form vernacular into English. When we look at the defects at Sl. No. 12 and 13, we find that the Registry had suffixed the expansive word 'etc.' after mentioning

three pages in the notice of defect. This clearly shows that the Registry had clearly indicated that the defects with regard to documents at Sl. No. 12 and 13 were generic in nature and the pages indicated were only illustrative. It was not necessary for the Registry to point out all the hand-written documents which required to be typed out or list out all the documents/records in vernacular language which had to be translated into English. The Applicant having filed the appeal petition themselves were fully aware of the hand-written and vernacular-based documents which had been submitted by them. Being aware of the documents/records, the Applicant ought to have assumed the responsibility to cure the defects in a composite and comprehensive manner rather than wait for the Registry to remind them repeatedly of the documents which required to be typed out and translated. Furthermore, the explanation for delay offered by the Applicant with respect to translation of vernacular documents and typing out of hand-written documents on the ground that the person who was the primary custodian of the documents was no longer available was a frivolous ground since in their own affidavit the Applicant has averred that the said employee had retired in 2020 while the present appeal has been filed in 2025. The contention of the Applicant that the delay was 153 days and not 193 days is also not acceptable as the Applicant has tried to artificially compress the duration of delay by discounting the 7 days' time permitted for curing the defects from each round of defect as and when they were cured. This methodology of computing the period of delay is not correct. As long as the defects are not fully cured, the period of 7 days' time allowed to correct the defects as and when pointed out by the Registry cannot be precluded from the calculating the total period of refiling delay. In our opinion, had the Applicant been more alert, careful and

vigilant, they would not have been required to undergo the process of correcting their defects five times. We are therefore of the considered view that the delay was clearly not occasioned by factors which were beyond the control of the Applicant but was a result of their inaction or deliberate non-action. It goes without saying that such unwarranted delays on specious grounds as have been articulated by the Applicant clearly runs counter to the timely conclusion of the resolution process which is central to the IBC. The reasons for delay do not inspire confidence in us.

10. We are therefore of the considered view that sufficient grounds have not been made out for condonation of 193 days delay in refiling of the present appeal. The refiling delay condonation application is rejected. The memo of appeal is also rejected.

**[Justice Ashok Bhushan]
Chairperson**

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

Place: New Delhi
Date : 11.05.2026
Sheetal