



DEBT RECOVERY

Supreme Court Rules Against “Automatic” Condonation of Delay in Negotiable Instruments Act Case

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Introduction

The Supreme Court of India, in a recent judgment, highlights the strict application of limitation provisions in cheque dishonour cases under the **Negotiable Instruments Act, 1881 (NI Act)**. It clarified that a complaint filed beyond the statutory deadline cannot be treated as maintainable by default. Any delay must be supported by a formal application for condonation, which the court must evaluate on merits before proceeding.

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The Core Issue: Limitation under Section 138

Section 138 of the NI Act provides a powerful remedy for payees in cases of cheque dishonour due to insufficient funds. This section is vital for maintaining the integrity of financial transactions in India. For a complaint to be considered valid, several conditions must be met:

- The cheque must have been issued to settle a legally enforceable debt.
- It must be presented to the bank within its period of validity.
- The payee must issue a demand notice to the drawer within 30 days of receiving information about the cheque's dishonor.
- The drawer must fail to make payment within 15 days of receiving this notice.

While **Section 142(b)** of the Act permits courts to condone delay, such condonation is not automatic. It specifies that a complaint must be filed in writing (specific application or affidavit) by the payee or the cheque holder and defines which courts have jurisdiction

Supreme Court's Reasoning

The Court laid down clear principles governing delay in cheque dishonour complaints:

- **Recognition of delay as a threshold requirement** – If a complaint is filed beyond the statutory period, the trial court must first acknowledge that it is time-barred.
- **Condonation as a discretionary judicial act** – The power to condone delay arises only when reasons are placed on record by the complainant and are found satisfactory by the court.
- **Exclusion of implied condonation** – Even a minor delay cannot be presumed condoned; the absence of a formal application renders the complaint non-maintainable.
- **Rejection of the High Court's interpretation** – The Supreme Court held it erroneous to suggest that an application for condonation is optional. Procedural compliance, it emphasized, is vital to protect the rights of the accused.

Significance of the Ruling

This ruling reiterates the principle of certainty in limitation law. In cheque dishonour proceedings, which are quasi-criminal in nature. Statutory timelines operate as a safeguard against abuse of process, ensuring that prosecutions are initiated promptly and fairly. By mandating a formal condonation application, the Court guarantees:

- Transparency in the exercise of judicial discretion,
- A meaningful opportunity for the accused to challenge the reasons for delay, and
- Avoidance of arbitrary or mechanical issuance of summons.

The Judgment

In *H.S. Oberoi Buildtech Pvt. Ltd. & Ors. v. M/s MSN Woodtech*^[1], the Supreme Court dealt with a cheque dishonour complaint filed **five days beyond the statutory 30-day period** under Section 138 of the NI Act. Both the Trial Court and the High Court allowed the matter to proceed without a condonation application, treating it as within limitation. The Supreme Court set aside these orders, stressing that delay cannot be presumed condoned and that even a minor lapse must be supported by a formal application under Section 142(b). While quashing the criminal complaint, the Court clarified that the respondent's civil recovery proceedings remain unaffected, but highlighted the larger principle that criminal liability under the NI Act arises only through strict compliance with limitation requirements.

Implications

- **For complainants** – Even a short delay can prove fatal if not accompanied by a properly drafted condonation application. Strict adherence to statutory timelines is therefore essential to preserve the maintainability of a complaint.
- **For trial courts** – Judicial orders must reflect a conscious recognition of delay and a reasoned assessment of whether sufficient cause exists for condonation, rather than proceeding on assumptions.
- **For businesses and individuals** – The ruling is a reminder to act swiftly in cheque dishonour matters and to ensure compliance with procedural safeguards, as lapses can shift a dispute from the realm of criminal enforcement to only civil recovery.

Conclusion

The Supreme Court's ruling delivers a clear message, limitation in cheque dishonour cases is a strict statutory mandate, not a procedural formality. While courts do possess discretion to condone delay under Section 142(b) of the NI Act, that discretion can only be exercised upon a formal application supported by cogent reasons. By reinforcing this requirement, the Court preserves the delicate balance between safeguarding the interests of payees seeking redress and protecting accused persons from prosecutions initiated in disregard of statutory timelines.

For more details, write to us at: contact@indialaw.in

[1] CRIMINAL APPEAL NO. OF 2025 (Arising out of SLP(Crl.) No. 2002/2025)

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