UPLOADED ON 15.04.2026

IN THE COURT OF PRINCIPAL COMMERCIAL COURT,
EGMORE, CHENNAI

Present: Thiru. S.GANAPATHISAMY, B.A.B.L.,
Principal Judge

Dated this 15th day of April 2026, Wednesday

I.A.No. 8 / 2025 in C.O.S. No.169 / 2024

M/s. Sree Balaji Traders,
Represented by its Partner K. Sowmiya,
W/o Kiruthigan Lokesh,
having office at No.18/37A-6,
R.K.S. Building,
Paramathi Road,
Namakkal – 637 001. Petitioner/Plaintiff

-Versus-

1. M/s. National Industrial Corporation Pvt. Ltd,
Represented by its Managing Director,
Mr. Rakesh Gupta,
Office at No.801-803, Ashok Bhawan,
No.93, Nehru Place,
New Delhi 110 019.

2. M/s. Golden Vats Pvt. Ltd,
Represented by its Director,
New No.272, 3rd floor,
Avvai Shanmugam Salai,

Gopalapuram,
Chennai – 600 086.

3. The Additional Chief Secretary,
Home Prohibition and Excise Department,
State of Tamil Nadu,
Fort. St.George,
Chennai.

4. The Commissioner,
Office of the Commissionerate of
Prohibition and Excise Department,
Chepauk,
Chennai – 600 005.

5. The Managing Director,
Tamil Nadu State Marketing Corporation Limited,
Gandhi- Irwin Bridge,
Egmore,
Chennai – 600 008. Respondents/Defendants

This Petition coming on this day for final hearing on 13.03.2026 before me in the presence of M/s. R.Rajarajan, R.Dillikumar, M. Manohar and A. Nirmal Kumar, learned counsels for petitioner/plaintiff; of M/s. Vijayan Subramanian, M.V. Bhaskar, N.C.Narindraadithyan, A.Murali amd Dhanush M. learned counsels for the 1st respondent/1st defendant and upon perusing the documents and having stood over for consideration till this day, this court today delivers the following:

ORDER

The Petitioner/plaintiff has filed this application under Section 5 of Limitation Act for condonation of delay of 97 days in taking steps to restore the suit dismissed for default on 03.03.2025 for non appearance of the plaintiff to give evidence.

The averments of the affidavit filed by the petitioner/plaintiff in support of this application are shortly as follows:

1. The plaintiff has filed the main suit for the relief of declaration to declare the termination letter dated 26.04.2023 by 1st defendant terminating Tripartite Agreement dated 13.09.2019 is illegal and for Permanent injunction. The disputes between the parties revolved around franchise agreement. During the pendency of the suit, the petitioner had filed a Writ Petition in W.P.No.24380 of 2024 seeking for Mandamus and it was disposed on 27.08.2024. In view of direction given by Hon'ble High Court, Madras and pendency of the suit, the 1st respondent was not able to process the application for fresh brand . Since the franchise agreement was terminated, the petitioner was also not in a position to carry on business. The 1st Respondent was also not able to obtain approval for fresh brand in view of pendency of litigation. Therefore, the 1st respondent approached the petitioner from the month of January 2025 to sort out the issues between them in amicable manner and they almost reached an arrangement. Therefore, the petitioner and 1st respondent agreed not to prosecute

the proceedings initiated against each other in order to give effect to settlement talks. In the meanwhile, the suit was posted for evidence of PW1 on 03.03.2025. Since settlement talks were effectively prosecuted by both the parties, the PW1 was not present before this Court and therefore the suit was dismissed on 03.03.2025. Earlier the 1st defendant had filed an S.L.P. before Hon'ble Supreme Court challenging the order dated 19.06.2024 passed in C.R.P. No.2314 of 2024 wherein a direction was given to number the suit emergently by allowing petition filed under Section 12A of Commercial Courts Act filed by the petitioner . In view of the settlement talks, the 1st defendant has also withdrawn the S,.L.P and it was dismissed as infructuous on 17.03.2025, since the suit was disposed. Non appearance of plaintiff for giving evidence before this Court on the appointed date of 03.03.2025 was only due to effective settlement talks proceeded between the contesting parties. Though the settlement talks were attained finality, the 1st Respondent imposed stringent stipulations with regard to penal clause in spite of the plaintiff and 2nd defendant requesting the 1st defendant to abandon the stipulation of penal clause, the 1st defendant refused to yield to the request made by the petitioner and 2nd Defendant. Therefore, the non appearance of PW1 before this Court is not willful. Even though, the settlement talks were going on, the dispute between the petitioner and 1st respondent still continues. Therefore, there was delay of 97 days in taking steps to restore the suit.

The averments of the Counter affidavit filed by the 1st Respondent/1st defendant are shortly as follows:

2. The petitioner has sought to rely upon the pendency of Writ Petition and its disposal order as if it were a justification for not prosecuting the present suit . The Writ Petition proceedings have no bearing whatsoever on the progress of this Commercial Suit. The Petitioner was actively contesting the suit until late 2024 and after dismissal of the interlocutory application in I.A.No.6 and 7 filed by the Petitioner on 25.10.2024, the Petitioner has deliberately allowed the suit to be dismissed for non-prosecution on 03.03.2025. There were never negotiations between the 1st defendant and the plaintiff. Even assuming without admitting that there were informal talks of settlement, the same cannot justify willful non appearance of the plaintiff on the date fixed for trial. But the counsel for plaintiff made his appearance before this Court till the dismissal of suit on 03.03.2025. Therefore, the alleged settlement discussion never prevented the petitioner from prosecuting the suit . Withdrawal of S.L.P. itself cannot be a ground to execute deliberate non prosecution of the suit. A common case management schedule was filed and recorded by this Court on 25.02.2025 and the petitioner has not adhered to the case management schedule. The petitioner failed to give reason for day to day delay. Therefore, the petition is liable to be dismissed.

3. The 2nd to 5th Respondents have not filed their counter and they were set exparte . When the application was taken up for enquiry on 13.03.2026 despite the both side counsels appeared, they did not argue this application. Therefore this Court reserved this application for orders.

4. I have gone through materials available on records.

5. The plaintiff has filed the main suit for the relief of declaration and permanent injunction restraining the 1st defendant from entering into, giving effect to any franchise agreement with third party for the alcohol product under the brand "Nicols" black and gold French brandy VSOP . When the suit was posted for trial on 03.03.2025, the plaintiff failed to appear before this Court. Therefore this Court dismissed the suit for default. The reason for non appearance of the plaintiff has been set forth in the affidavit that only on account of settlement talks between the plaintiff and 1st defendant, the plaintiff could not appear before this Court in order to give effect and encourage settlement talks . It is the contention of the Petitioner that 1st defendant has withdrawn the S.L.P. preferred by it before the Hon'ble Supreme Court only on account of continuous settlement talks between the parties.

6. The 1st defendant has specifically denied the settlement talks in his counter affidavit. Though the plaintiff has not produced any materials to show the settlement talks between the parties, this Court feels to give an opportunity to the Petitioner to give evidence and see the adjudication on merits . It is settled law that every lis shall be adjudicated only on merits.. The reason assigned for condonation of delay of 97 days is sufficient. At the same time, the petitioner cannot be permitted to procrastinate the proceedings. If the suit is restored , the respondents will not be prejudiced in any way.

In the result, considering the facts and circumstances of the case, this application will be allowed on payment of cost of Rs.20,000/- by the plaintiff to Chennai District Mediation Centre on or before 04.06.2026 failing which the application will stand dismissed. Call on 05.06.2026.

Dictated by me to the Steno-Typist, directly typed by him in the computer, corrected and pronounced by me in the open court, this 15th day of April 2026.

GANAPATHI SAMY
Digitally signed by GANAPATHI SAMY
Date: 2026.04.15 17:57:06 +0530

Principal Judge
Principal Commercial Court
Egmore, Chennai.

Draft/ Fair Order in
I.A.No.8 of 2025
in
C.O.S.No. 169 /2024
Date: 15.04.2026

Principal Commercial Court,
Egmore, Chennai.