

UPLOADED ON 29.04.2026

IN THE COURT OF PRINCIPAL COMMERCIAL COURT,
EGMORE, CHENNAI

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

Dated this 29th day of April 2026, Wednesday

I.A.No. 4 / 2026 in C.O.S. No.1348 / 2022

M/s. SNM Packaging Private Limited,
Narasaraopet Road,
Dokiparru Village 522 438,
Medikondru Mandalam,
Guntur District,
Andhra Pradesh.

Petitioner/ Defendant

-Versus-

M/s.American Paper Export Inc.,
Suite 506-1080,
Howe Street,
Vancouver, BC,
Canada,
Represented by its power agent,
M/s. Orice Impex Private Limited,
through its Director ,
A.Balaguru,
299, First floor,
4th Main Road,

Burma Colony,
Perungudi,
Chennai 560 096.

Respondent/Plaintiff

This Petition coming on this day for final hearing on 07.03.2026 before me in the presence of M/s. S. Venkata Krishna Kumar, K. Ashok Chakravarthy, B.K. Srinivasan and K.Somaraju Apparao, learned counsels for the petitioner/defendant; of M/s. S.Subramanian and T. Arulselvan, learned counsels for the respondent/plaintiff and upon perusing the documents and hearing the arguments of both side and having stood over for consideration till this day, this court today delivers the following :

ORDER

1. The Petitioner / defendant has come forward with this this applications Under Section 5 of Limitation Act seeking for condonation of delay of 1130 days in taking steps to set aside the ex parte decree dated 15.11.2022 inter alia alleging that the suit filed by the respondent / plaintiff seeking for suit claim of Rs.37,20,000/- together with interest, the petitioner defendant had engaged M/s. Meera Gunasekar and G.Mahar Amudha Surya as their counsels by paying legal fees of Rs. 25,000/- in cash and they stated to have filed an application for rejection of plaint and it was decided in their favour. The petitioner has further stated in the affidavit that only upon a receipt of the notice in EP.No.8/2025 on 04.12.2025, the defendant came to know about the ex parte decree and his attempt to contact his earlier counsel was unsuccessful and therefore the delay of 1130 days should be condoned.

2. The respondent / plaintiff has resisted this application inter alia alleging that as per the Judgment of Honourable Supreme Court, in SCG Contracts Vs K.S. Chamankar reported in 2019 (12) SCC 210, the right of the defendant to file written statement stands forfeited in view of he has not filed written statement within the time stipulated in Commercial Courts Act and the suit was originally filed before Honourable High Court in 2017 in C.S.No.537 of 2018. The respondent has further stated that the defendant herein having entered his appearance before the High Court on 16.11.2018 did not file his written statement till 30.08.2019 until the suit was transferred to City Civil Court as O.S.No.7130/2019 on the point of pecuniary jurisdiction and the defendant has not chosen to file written statement even before City Civil Court until 21.02.2022 as a result of which he was set exparte on 21.02.2022. The respondent has further stated that after recording evidence of plaintiff side witness, the case stood posted for Judgment and thereafter it was transferred to this court as COS.No.1348 of 2022 as transaction is in Commercial nature and finally a decree was passed on 15.11.2022. The respondent has further stated that the attempt to place the blame on erstwhile Advocates for the delay is totally dishonest stand and untenable.

The point for consideration in this applications is

3. Whether there is sufficient cause to condone the delay of 1130days in taking steps to set aside the ex parte decree?

4. Both side Heard.

5. The learned counsel for the petitioner submitted that the management of the defendant company got changed several hands and the counsel for the defendants nominated in the main suit having received legal fees informed the defendant that the application for rejection of plaint was decided in favour the defendant.

6. The learned counsel for the respondent / plaintiff submitted that the petitioner cannot blame his advocate and he has equal responsibility of perusing the suit proceedings. The learned counsel for the respondent relied on a decision of our Honourable High Court rendered on 31.01.2025 in CRP No.52/2025 in D.V.Venkatesan Vs N.R.Subramanian wherein our Honourable High Court has held that the entire blame cannot be thrown on the head of advocate and the litigant has a duty and equal responsibility to follow the judicial proceedings. The defendant is a private limited company, it may have a legal team. It is highly unbelievable that the defendant has not pursued the matter for the last 8 years and only on receipt of notice in EP it came to know about the exparte decree dated 15.11.2022. Our Honourable Supreme Court has time and again held that the Court should not condone the delay when the defendant approached the court after the decree holder initiated execution proceeding for execution of decree. There is no material to show that the defendant has taken action against the erstwhile advocates for falsely informing the defendant that the case was decided in their favour. The judiciary has given facilities to public to ascertain their case status online. At least the defendant ought to have checked the

status of his case in the web portal. The reason assigned by the defendant for condonation of delay is not sufficient. The application is devoid of merits.

In the result, the application is dismissed with cost.

Dictated by me to the Steno-Typist, directly typed by him in the computer, corrected and pronounced by me in the open court, this 29th day of April 2026.

Digitally signed
by GANAPATHI
GANAPATHI SAMY
Date:
2026.04.29
18:42:26 +0530

Principal Judge
Principal Commercial Court
Egmore, Chennai.

Draft/ Fair Order in
I.A.No.4 of 2026
in
C.O.S.No. 1348 /2022
Date: 29.04.2026

Principal Commercial Court,
Egmore, Chennai.