

* THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

+ CIVIL REVISION PETITION NO.214/2026

% Dated: 17.03.2026

Bunge India Pvt. LtdPetitioner

And

M/s.Sree Mahalskhmi Oil MillsRespondent

! Counsel for the Petitioner : Sri V.V.Ravi Prasad rep. Sri Gnani
Vivek Karra

^ Counsel for the Respondent : Sri Mukund Rao, rep. Sri
D.S.Sivadarshan

< GIST :

> HEAD NOTE :

? Cases referred :

¹ (2005) 4 SCC 480

² 2020 SCC Online 684

³ 2020 SCC Online Del 2072

⁴ 2021 SCC Online Del 4679,

⁵ 2024 SCC Online Mad 4785

⁶ 2025 DHC 9512

⁷ (2005) 6 SCC 344

⁸ (2005) 4 SCC 480

⁹(2020) 1 CTC 586

10 (2008) 17 SCC 117

11. (2020) 10 SCC 706

12.(2023) 11 SCC 79

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
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CIVIL REVISION PETITION NO.214/2026

Bunge India Pvt. LtdPetitioner

And

M/s.Sree Mahalskhmi Oil MillsRespondent

DATE OF ORDER PRONOUNCED: 17.03.2026

1. Whether Reporters of Local newspapers Yes/No
may be allowed to see the Judgments?
2. Whether the copies of judgment may be Yes/No
Marked to Law Reporters/Journals.
3. Whether Their Lordship wishes Yes/No
to see the fair copy of the Judgment?

RAVI NATH TILHARI, J

MAHESWARA RAO KUNCHEAM, J

APHC010035042026



**IN THE HIGH COURT OF ANDHRA PRADESH
AT AMARAVATI
(Special Original Jurisdiction)**

[3524]

TUESDAY, THE SEVENTEENTH DAY OF MARCH
TWO THOUSAND AND TWENTY SIX

PRESENT

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI

**THE HONOURABLE SRI JUSTICE MAHESWARA RAO
KUNCHEAM**

CIVIL REVISION PETITION NO: 214/2026

Between:

1. BUNGE INDIA PVT LTD, REGISTERED OFFICE AT THE CAPITAL, 601C AND 601D, 6TH FLOOR, C-70, G BLOCK, BANDRA KURLA COMPLEX, BANDRA EAST MUMBAI - 400051. PRINCIPAL BUSINESS PLACE ALSO AT D.NO. RS. NO.183/1, JRD TATA AUTONAGAR, KANURU, NTR DISTRICT, VIJAYAWADA CITY, ANDHRA PRADESH - 520007. LOCAL BUSINESS PLACE AT NO. 8726, KRISHNAPATNAM PLANT, SURVEY NO. 450/1, 451,453/2, IPURU - IB, PANTAPALEM VILLAGE, MUTHUKUR MANDAL, SRI POTTI SRI RAMULU NELLORE DISTRICT, ANDHRA PRADESH - 524 323. REPRESENTED BY ITS MANAGING DIRECTOR EMAIL CARE@BUNGEINDIA.COM

...PETITIONER

AND

1. M/S SREE MAHALAKSHMI OIL MILLS, having its principal place of business at 9/157-A-1 Saratha Nagar, Thimmampalayam Road Coimbatore, Tamil Nadu - 641104. Represented by its Proprietor Mr. Kanagaraj

...RESPONDENT

Petition under Article 227 of the Constitution of India,praying that in the circumstances stated in the grounds filed herein,the High Court may be pleased toaggrieved by the Order dated 26.12.2025 passed in I.A. No. 58 of 2025 in C.O.S. No. 24 of 2024, on the file of Honourable Special Court for Trail and Disposal of Commercial Disputes, Vijayawada for the following grounds among other

IA NO: 1 OF 2026

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased pleased to stay all further proceedings in COS 24/2024 on the file of the Learned Special Court for Trial and Disposal of Commercial Disputes, Vijayawada and pass

Counsel for the Petitioner:

1.GNANI VIVEK KARRA

Counsel for the Respondent:

1.D S SIVADARSHAN

The Court made the following:

THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

CIVIL REVISION PETITION No.214 of 2026

ORDER: *(per Hon'ble Sri Justice Ravi Nath Tilhari)*

Heard Sri V.V.Ravi Prasad, learned counsel representing Sri Gnani Vivek Karra, learned counsel for the petitioner and Sri Mukund Rao, learned counsel appearing for Sri D.S.Sivadarshan, learned counsel for the respondent.

2. This Civil Revision Petition, under Article 227 of the Constitution of India, has been filed by the petitioner, who is the defendant in C.O.S.No.24 of 2024 on the file of the Special Court for Trial and Disposal of Commercial Disputes, Vijayawada, being aggrieved from the order dated 26.12.2025 passed in I.A.No.58 of 2025 in the said C.O.S, wherein the application filed by the plaintiff/respondent was allowed and the written statement submitted by the defendant/petitioner was struck off.

I. **Facts:**

3. The plaintiff, M/s.Sree Mahalakshmi Oil Mills, filed the C.O.S against the defendant/respondent, Bunge India Pvt. Ltd, for the following reliefs:

“A. Direct the defendant to refund the plaintiff's money of Rs. 1,35,20,109.00 (Rupees One Crore Thirty-Five Lakhs Twenty Thousand One hundred and Nine Only) held by the defendant with interest @ 36% per annum on the aforesaid sum from 14.09.2024 to until the date of realization together with costs.

B. Direct the defendant to pay the plaintiff, damages for a sum of Rs. 3,21,65,534.94/- (Rupees Three Crores Twenty-One Lakhs Sixty-Five Thousand Five Hundred and Thirty-Four Ninety-Four Paise) with interest @36% per annum on the aforesaid sum from the date of filing of this present suit to until the date of realization together with costs.

C. Declare the unilaterally and onerously revised contracts no. 41016607 dated 14.09.2024 issued by the defendant instead of Contract No. 41027569 for remaining quantity of 40.060 MTs of Palm Olein Oil in Bulk @ 1,14,390 Per MT as null and void

D. Declare the unilaterally and onerously revised contracts no. 40995807 dated 14.09.2024 issued by the defendant instead of Contract No. 41027569 for contract No. 41017411 for 1000 MTs of Palm Olein Oil in Bulk @ 1,15,890 Per MT as null and void.

E. For costs of this Suit including the court fees paid and legal costs and such further or other reliefs as this Hon'ble Court deems fit and proper in the circumstances of the case and thus render justice.”

4. The plaintiff/respondent filed I.A.No.188 of 2024 for temporary injunction to restrain the defendant from alienating the petition schedule property.

5. The plaintiff/respondent filed I.A.No.58 of 2025 supported with the affidavit to strike off the written statement of the defendant.

6. It was contended that the defendant had received suit summons on 30.10.2024 and entered appearance before the Special Judge on 06.11.2024 to advance hearing of I.A.No.187 of

2024. The 30 days period for filing written statement expired on 06.12.2024. The written statement could be filed thereafter also within the extended period of 120 days with the leave of the Court. That period of 120 days was due to expire on 06.03.2025. The written statement was filed on 18.02.2025. The plaintiff's case was that the written statement was not filed within the first 30 days and though it was filed within 120 days but any application for condonation of delay in not filing the written statement within 30 days, as per Order VIII Rule 1 C.P.C as amended for Commercial Courts Act, 2015(in short the 'Act, 2015') was not filed. Consequently, the written statement was not valid in the eye of law and deserved to be struck off.

7. The defendant/petitioner filed counter and opposed I.A.No.58 of 2025. The stand taken was that the written statement was filed within the permissible limit i.e within 120 days as per the provisions of the C.P.C as amended for the Commercial Courts Act, 2015. The 120th day would fall on 28.02.2025 and the written statement was filed on 18.02.2025. The same was well within the 120 days statutory limit. Basing on the proviso of Order VIII Rule 1 C.P.C, the stand was that it required merely the Court to record reasons in writing and imposing the cost if any and there was no procedural

requirement for the defendant to file a separate application seeking condonation of delay. The written statement was a crucial statement of defence of the defendant and if it was struck off, it would go to the root of the matter. Striking off written statement on hyper technical grounds would result in grave miscarriage of justice. The procedural lapses could not be allowed to over ride substantive rights. It was also the stand of the defendant that there was no demonstrable prejudice to the plaintiff. But if the written statement was struck off, that would deprive the defendant his rights to contest the matter on merits.

II. Impugned Order dated 26.12.2025:

8. The learned Special Judge, framed the following point for determination:

“Whether this petition can be allowed to strike off written statement filed by the respondent/defendant?”

9. The learned Special Judge, by order dated 26.12.2025, allowed I.A.No.58 of 2025 of the plaintiff and the written statement of the defendant was struck off.

10. The learned Special Judge took the view that the defendant received summons on 30.10.2024 and admittedly, failed to file the

written statement within the initial period of 30 days. The written statement was filed on the 110th day on 18.02.2025 from the date of service of summons. The written statement was filed without any application seeking extension of time and without assigning any reasons explaining the delay.

11. The learned Special Judge observed that the Court went on adjourning the matter for filing written statement till 18.02.2025 and on that date i.e. 18.02.2025 the docket order was passed:

“Written statement of defendant is filed. For inspection of documents, call on 22.04.2025.”

12. Thus, recording that the written statement was not filed within the first 30 days and the defendant filed within 120 days, the 110th day from the date of receipt of summons but it was filed without any application seeking extension of time and without assigning any reasons for the delay and so, the written statement deserved rejection, as the Commercial Courts Act was enacted with the specific object of enforcing procedural discipline and curbing delays in high value commercial litigation and permitting any written statement to remain on record without adherence to the mandatory

statutory safeguards would defeat the very object and purpose of the Act.

13. A submission was raised on behalf of the defendant before the learned Special Judge that the Special Judge received the written statement on 18.02.2025 and passed the docket order as:

“Written statement of defendant is filed. For inspection of documents, call on 22.04.2025”.

The written statement therefore could not be challenged, as the Court had accepted it beyond 30 days.

14. To the aforesaid contention, the learned Special Judge observed that the jurisdiction of the Special Court to accept written statement beyond the 30 days would arise only upon compliance with the statutory recognitions with the statutory pre-conditions namely a request for extension and raising of reasons in writing. In the absence of such compliance the acceptance of the written statement on 18.02.2025 was rendered procedurally illegal. Mere physical filing or the ministerial receipt of the written statement by the Court could not be equated with a valid judicial acceptance in compliance with the mandatory statutory requirements.

15. So, the learned Special Judge took the view that the defendant cannot derive any benefit of the order dated 18.02.2025, on which date the written statement was filed.

III. Submissions of learned counsel for the petitioner:

16. Sri V.V.Ravi Prasad, learned counsel for the petitioner submitted that the facts are not in dispute. The written statement was not filed within the first 30 days but it was filed within 120 days, which is the permissible statutory period. He fairly submitted that any application for extension of time or condonation of delay, assigning reasons of delay in filing it beyond 30 days was not filed and in the written statement also, there was no paragraph explaining the delay in filing it beyond 30 days

17. Learned counsel for the petitioner, however, submitted that the provision for filing of the written statement under Order 8 Rule 1 C.P.C as amended and applicable to the Commercial Courts is procedural in nature. The procedural law is not mandatory so as to affect the substantive rights of the party. The written statement being within the statutory extendable period of 120 days, the learned Special Judge ought not to have construed such provision so strictly and even if there was no cause shown, in the interest of justice, the

learned Special Judge ought to have granted atleast one opportunity to the defendant/petitioner to file an application and an affidavit, explaining the cause for delay in filing the written statement beyond 30 days but within 120 days. He submitted that once written statement was filed within 120 days atleast one opportunity was required to be given to the petitioner to explain the cause of delay.

18. Learned counsel for the petitioner submitted that on filing of the written statement and at the time of passing the order dated 18.02.2025, any objection was not raised. If the objection had been raised then and there, the defendant would have certainly filed an application for condonation of delay and that too, within the period of 120 days, as the written statement was filed on 110th day and so within the remaining period an application for condonation of delay could have been certainly filed.

19. Learned counsel for the petitioner placed reliance in ***Kailash v. Nanhku and others***¹, to contend that there can be no strait jacket formula to contend that a prayer seeking time beyond 30 days for filing the written statement ought to be made in writing as also that in its judicial discretion to be exercised on well settled parameters, the Court may always put the defendants on terms including imposition

¹ (2005) 4 SCC 480

of compensatory costs and may also insist on an affidavit, depending on the facts and circumstances of a given case to file the documentary evidence to convince the Court that the cause shown was sufficient. However, such an opportunity was not granted.

IV. **Submissions of learned counsel for the respondent:**

20. Sri Mukund Rao, Learned counsel for the respondent, submitted that in view of the undisputed facts on record, the date of filing of the written statement beyond 30 days though within 120 days; but without any application seeking extension of time for condonation of delay; as also the order dated 18.02.2025 not recording any reasons for alleged receipt of the written statement, there is no illegality in the impugned order in striking off the written statement. He submitted that the object of the Commercial Courts Act is expeditious disposal of the commercial disputes. The time frame under the Act for filing the written statement is mandatory. If it is not filed within first 30 days from the date of receipt of summons specific reason is to be assigned for such delay and if the reasons are sufficient, then only the Court can accept the written statement by recording the reasons. The mandatory statutory provisions therefore under Order VIII Rule 1 C.P.C as applicable to the

Commercial Courts, cannot be given a go-bye and the written statement had to be struck off. Therefore, there is no illegality in the impugned order.

21. Learned counsel for the respondent placed reliance in **1. Shreeved Consultancy LLP v. Friends Motels Pvt. Ltd²**, **2. Friends Motels Pvt. Ltd. Shreeved Consultancy LLP³**, **3. Initiaz Sheikh v. Puma se⁴**, **4. Ramesh Flowers Pvt. Ltd v. Sumit⁵** and **5. Anil Sharma V. Ajay Jain⁶**

V. Point for consideration:

22. The point for our consideration and determination is:

“Whether the impugned order passed by the learned Special Judge, striking off the written statement of the defendant/petitioner is, legally sustainable?”

VI. Consideration/Analysis:

23. We have considered the aforesaid submissions and perused the material on record.

24. At the very outset, we observe that there is no dispute on facts, about the date of receipt of summons, filing the written

² 2020 SCC Online 684

³ 2020 SCC Online Del 2072

⁴ 2021 SCC Online Del 4679,

⁵ 2024 SCC Online Mad 4785

⁶ 2025 DHC 9512

statement beyond the period of 30 days but within 120 days, which is the outer limit. Any application for condonation of delay setting out the reasons for such delay was not filed. No prayer for extension of time was sought even in the written statement nor any explanation was there for delay in filing written statement beyond 30 days. When the written statement was filed on 18.02.2025 an order dated 18.02.2025 was passed, reproduced (supra) but it does not assign the reasons nor condones the delay. In other words, it is not a case where, by recording the reasons the Court accepted the written statement filed beyond 30 days though within 120 days, vide order dated 18.02.2025.

25. Order VIII Rule 1 C.P.C and amended Commercial Courts Act, 2015 read as under:

“ **Order - VIII**
[Written Statement, set-off and counter-claim]

1. Written statement:- The defendant shall, within thirty days from the date of service of summons on him, present a written statement of his defence:

Special Amendment
Suit in respect of Commercial dispute of Specified Value

In Rule 1, for the proviso, the following proviso shall be substituted, namely:-

“Provided that where the defendant fails to file the written statement within the said period of thirty days, he shall be allowed to file the written statement on such other day, as may be specified by the Court, for reasons to be recorded in writing and on payment of such costs as the Court deems fit, but

which shall not be later than one hundred twenty days from the date of service of summons and on expiry of one hundred twenty days from the date of service of summons, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record.” ”

26. The legal proposition is also well settled; on which there is no dispute that if the written statement is filed beyond initial 30 days period but within the maximum statutory period of 120 days, the reasons are required to be recorded by the Court for acceptance of the written statement. It is also settled that after 120 days, the written statement shall not be accepted. On expiry of 120 days, the defendant shall forfeit the right to file the written statement and the Court shall not allow the written statement to be taken on record. That mandate comes into play on expiry of 120 days but not within 120 days. However, present is not a case of written statement being filed beyond 120 days. The present is a case of filing written statement within 120 days. If the written statement is within 120 days but after 30 days, the Court has to record the reasons in writing. In our view, recording of reasons is referable to the delay aspect beyond the initial period of 30 days upto the date of filing the written statement within 120 days.

27. Once the requirement is that the Court has to record the reasons in writing, certainly it is for the defendant to disclose the reasons specifically for the delayed period so that the Court may come to the conclusion if there was sufficient cause so as to condone the delay within the permissible period and to permit to file the written statement. If the cause has not been assigned then the Court would not be in a position to record the reasons. Such cause for delay, in our view, can be stated in a separate affidavit filed along with an application to allow to file the written statement beyond 30 days or it can also be stated in the written statement itself so that the Court may come to the conclusion on consideration of such cause if the written statement is to be allowed or not to be allowed. If it is to be allowed, whether some costs is to be imposed and if so, then as to what cost. To enable the Court to pass a reasoned order, there should be foundation of the grounds being sufficient laid down in the affidavit/application/written statement and in the absence thereof the Court would not be able to exercise the jurisdiction.

28. In the present case neither there was an application nor any affidavit and even in the written statement any sufficient cause was not stated. So, we are of the view that the order dated 18.02.2025 passed by the learned Special Judge while filing the written

statement, being without recording the reasons and condoning the delay cannot be termed as 'receiving the written statement' by the learned Trial Court beyond 30 days. A perusal of the order dated 18.02.2025 also shows that the Court had not allowed filing of the written statement. The order merely says written statement is filed and for inspection of documents, the matter was posted to 22.04.2025. The said order merely records filing of the written statement. It does not allow the written statement to be taken on record beyond the period of 30 days.

29. Consequently, in our view no benefit of that order dated 18.02.2025 can be taken by the defendant/petitioner so as to contend that the written statement was permitted after 30 days and therefore, thereafter, the plaintiff could not press the objection and could not file the application to strike off the written statement and the written statement could not be struck off.

30. However, the contention of the learned counsel for the petitioner that in view of the order dated 18.02.2025, the defendant gathered the expression as if the written statement was taken on record does not appear to be not without subsistence or force. We also find force in the submission that atleast one opportunity should

have been given to explain the sufficient cause before striking off the written statement, for the discussion and reasons to follow.

31. In ***Kailash*** (supra), the Hon'ble Apex Court held that the time schedule prescribed by Order VIII Rule 1 C.P.C. has to be honoured. The defendant should be vigilant. The extension of time sought for by the defendant from the court whether within 30 days or 90 days, as the case may be, should not be granted just as a matter of routine and merely for the asking, more so, when the period of 90 days has expired. The extension can be only by way of an exception and for reasons assigned by the defendant and also recording in writing by the court to its satisfaction. It must be spelled out that a departure from the time schedule prescribed by Order 8 Rule 1 of the Code was being allowed to be made because the circumstances were exceptional, occasioned by reasons beyond the control of the defendant and such extension was required in the interest of justice, and grave injustice would be occasioned if the time was not extended. The Hon'ble Apex Court, further, observed that no straitjacket formula can be laid down except that the observance of time schedule contemplated by Order VIII Rule 1 C.P.C shall be the rule and departure therefrom an exception, made for satisfactory reasons only, observing further that Order VIII Rule 1 C.P.C, though

couched in mandatory form, is directory being a provision in the domain of procedural law.

32. Paras 45 and 46 of **Kailash** (supra) are reproduced as under:

“45. However, no straitjacket formula can be laid down except that the observance of time schedule contemplated by Order VIII Rule 1 shall be the rule and departure therefrom an exception, made for satisfactory reasons only. We hold that Order VIII Rule 1, though couched in mandatory form, is directory being a provision in the domain of processual law.

46. We sum up and briefly state our conclusions as under:-

(i) *The trial of an election petition commences from the date of the receipt of the election petition by the Court and continues till the date of its decision. The filing of pleadings is one stage in the trial of an election petition. The power vesting in the High Court to adjourn the trial from time to time (as far as practicable and without sacrificing the expediency and interests of justice) includes power to adjourn the hearing in an election petition affording opportunity to the defendant to file written statement. The availability of such power in the High Court is spelled out by the provisions of the Representation of the People Act, 1951 itself and Rules made for purposes of that Act and a resort to the provisions of the CPC is not called for.*

(ii) *On the language of [Section 87\(1\)](#) of the Act, it is clear that the applicability of the procedure provided for the trial of suits to the trial of election petitions is not attracted with all its rigidity and technicality. The rules of procedure contained in [the CPC](#) apply to the trial of election petitions under the Act with flexibility and only as guidelines.*

(iii) *In case of conflict between the provisions of the [Representation of the People Act, 1951](#) and the Rules framed thereunder or the Rules framed by the High Court in exercise of the power conferred by [Article 225](#) of the Constitution on the one hand, and the Rules of Procedure contained in [the CPC](#) on the other hand, the former shall prevail over the latter.*

(iv) ***The purpose of providing the time schedule for filing the written statement under [Order VIII, Rule 1 of CPC](#) is to expedite and not to scuttle the hearing. The provision spells out a disability on the defendant. It does not impose an embargo on the power of the Court to extend the time. Though, the language of the proviso to Rule 1 of [Order VIII of the CPC](#) is couched in negative form, it does not specify any penal***

consequences flowing from the non-compliance. The provision being in the domain of the Procedural Law, it has to be held directory and not mandatory. The power of the Court to extend time for filing the written statement beyond the time schedule provided by Order VIII, Rule 1 of the CPC is not completely taken away.

(v) Though Order VIII, Rule 1 of the CPC is a part of Procedural Law and hence directory, keeping in view the need for expeditious trial of civil causes which persuaded the Parliament to enact the provision in its present form, it is held that ordinarily the time schedule contained in the provision is to be followed as a rule and departure therefrom would be by way of exception. A prayer for extension of time made by the defendant shall not be granted just as a matter of routine and merely for asking, more so when the period of 90 days has expired. Extension of time may be allowed by way of an exception, for reasons to be assigned by the defendant and also be placed on record in writing, howsoever briefly, by the Court on its being satisfied. Extension of time may be allowed if it was needed to be given for the circumstances which are exceptional, occasioned by reasons beyond the control of the defendant and grave injustice would be occasioned if the time was not extended. Costs may be imposed and affidavit or documents in support of the grounds pleaded by the defendant for extension of time may be demanded, depending on the facts and circumstances of a given case."

33. We are not obvious that in **Kailash** (supra) the provisions of Order VIII Rule 1 C.P.C. as applicable generally was under consideration in the context of the Election Petition, and not as amended for its applicability to the Special Courts under the Commercial Courts Act which are different, slightly, inter alia, with respect to the initial period for filing the written statement; the maximum permissible period for filing the written statement of 120 days beyond which it cannot be allowed by the Court. The consequence has been provided for not filing the written statement

within the maximum statutory period of 120 days. Order VIII Rule 1 C.P.C as applicable generally to the civil courts the initial period is 90 days. There is no outer limit. The consequence of not filing the written statement within the statutory period has also not been provided. In its applicability to the commercial court, the consequence has been provided that after the period of 120 days from the date of service of summons the defendant shall forfeit the right to file the written statement which cannot be allowed by the Court.

34. In our view, Order VIII Rule 1 C.P.C is couched in a mandatory language One mandate is that it shall be allowed to file written statement after expiry of 30 days but within 120 days on the sufficient cause for delay being shown. The other mandate is that it shall not be allowed after expiry of 120 days. Under the general provisions of Order VIII Rule 1 C.P.C it can be allowed even beyond 120 days subject to the courts being satisfied that there was sufficient cause and may be subject to the payment of cost. The object of the Act, 2015 is no doubt, an expeditious disposal of the disputes of the commercial nature, and to give effect to such an object, the provisions are to be construed strictly and not by taking a lenient view which may defeat the very object of the Act, 2015. At

the same time one mandate in order VIII Rule 1 C.P.C., is that written statement shall be allowed within 120 days may be beyond 30 days on satisfaction of the condition imposed. This mandate is also to be given effect to which is under the same Act. Therefore, while considering the 'sufficient cause' a liberal view has to be taken in favour of allowing the written statement. Such a liberal view cannot be taken for a written statement filed beyond 120 days as there is clear prohibition. In the present case, the written statement was filed within the statutory period of 120 days.

35. In ***Kailash*** (supra), the Hon'ble Apex Court observed that though Order VIII Rule 1 C.P.C was couched in a mandatory form still it was directory being a provision in the domain of procedural law. We are of the view that such principle and law as laid down can be applied the same way so far as filing of the written statement beyond initial period of 30 days but within 120 days is concerned, such part of Order VIII Rule 1 C.P.C though mandatory the Court has to take a lenient view in permitting the written statement within 120 days.

36. We are of the further view that it is not that, on expiry of 120 days an application cannot be filed seeking condonation of delay in filing the written statement beyond 30 days but within 120 days. If

any such application has not been filed, there is no mandate that the application cannot be filed later on. The mandate is that the written statement cannot be filed after 120 days nor it can be permitted but such a mandate cannot be read for filing an application for condonation of delay for a written statement already filed within 120 days. So, where an application for condonation of delay has not been filed the court shall allow an opportunity to file such an application even beyond 120 days provided the written statement has already been filed within 120 days.

37. It is settled in law that the procedure is handmaid of justice. The object of prescribing procedure is to advance justice. In ***Sambhaji v. Gangabai***⁷ the Hon'ble Apex Court held that all the rules of procedure are the handmaid of justice. The language employed by the draftsman of procedural law may be liberal or stringent, but the fact remains that the object of prescribing procedure is to advance justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Unless compelled by express and specific language of the statute, the provisions of CPC or any other procedural enactment ought not to be construed in a manner which

⁷ (2008) 17 SCC 117

would leave the Court helpless to meet extraordinary situations in the ends of justice.

38. Paragraph Nos.(10) to (14) of **Sambhaji** (supra) read as under:

“10. All the rules of procedure are the handmaid of justice. The language employed by the draftsman of processual law may be liberal or stringent, but the fact remains that the object of prescribing procedure is to advance the cause of justice. In an adversarial system, no party should ordinarily be denied the opportunity of participating in the process of justice dispensation. Unless compelled by express and specific language of the statute, the provisions of CPC or any other procedural enactment ought not to be construed in a manner which would leave the court helpless to meet extraordinary situations in the ends of justice.

11. The mortality of justice at the hands of law troubles a Judge's conscience and points an angry interrogation at the law reformer.

*12. The processual law so dominates in certain systems as to overpower substantive rights and substantial justice. The humanist rule that procedure should be the handmaid, not the mistress, of legal justice compels consideration of vesting a residuary power in the Judges to act *ex debito justitiae* where the tragic sequel otherwise would be wholly inequitable. Justice is the goal of jurisprudence, processual, as much as substantive. ...*

13. No person has a vested right in any course of procedure. He has only the right of prosecution or defence in the manner for the time being by or for the court in which the case is pending, and if, by an Act of Parliament the mode of procedure is altered, he has no other right than to proceed according to the altered mode. ... A procedural law should not ordinarily be construed as mandatory; the procedural law is always subservient to and is in aid to justice. Any interpretation which eludes or frustrates the recipient of justice is not to be followed. ...

14. Processual law is not to be a tyrant but a servant, not an obstruction but an aid to justice. Procedural prescriptions are the handmaid and not the mistress, a lubricant, not a resistant in the administration of justice.”

39. In ***Sugandhi v. P. Rajkumar***⁸ the Hon'ble Apex Court reiterated that the procedure is a handmade of justice. Procedural and technical hurdles shall not be allowed to come in the way of the Court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary party, Courts must lean towards doing substantial justice rather than relying upon procedural and technical violation.

40. In ***Abraham Patani v. State of Maharashtra***⁹ the Hon'ble Apex Court held that when dealing with matters of procedure the old adage of procedural laws being the handmaid of justice must be kept in mind, and that the procedural rules must not be allowed to defeat or hamper the pursuit of justice.

41. Paragraphs-65 to 69 of ***Abraham Patani*** (supra) read as under:

“65. Adverting to the first submission, we acknowledge the unambiguous language of Section 91 which contemplates an application being submitted by the Commissioner, Respondent 3. However, when dealing with such matters of procedure the old adage of procedural laws being the handmaid of justice must be kept in mind. As has been exhaustively and extensively reiterated by this Court in the past, procedural rules must not be allowed to defeat the basic purpose of a statute or hamper the pursuit of justice unless violation of the procedure would itself amount to grave injustice.

66. In Sangram Singh v. Election Tribunal [Sangram Singh v. Election Tribunal, 1955 SCC OnLine SC 21 : (1955) 2

⁸ (2020) 10 SCC 706

⁹ (2023) 11 SCC 79

SCR 1 : AIR 1955 SC 425] this Court in the context of procedural rules held : (AIR p. 429, para 16)

“16. ... It is “procedure”, something designed to facilitate justice and further its ends : not a penal enactment for punishment and penalties; not a thing designed to trip people up. Too technical a construction of sections that leaves no room for reasonable elasticity of interpretation should therefore be guarded against (provided always that justice is “done” to both sides) lest the very means designed for the furtherance of justice be used to frustrate it.”

(emphasis supplied)

67. Similarly, in *Ghanshyam Dass v. Union of India* [*Ghanshyam Dass v. Union of India*, (1984) 3 SCC 46] the ethos behind “adjective law” was elaborated upon while dealing with issuance of notice under Section 80 of the Civil Procedure Code : (SCC p. 54, para 12)

“12. In the ultimate analysis, the question as to whether a notice under Section 80 of the Code is valid or not is a question of judicial construction. The Privy Council and this Court have applied the rule of strict compliance in dealing with the question of identity of the person who issues the notice with the person who brings the suit. This Court has however adopted the rule of substantial compliance in dealing with the requirement that there must be identity between the cause of action and the reliefs claimed in the notice as well as in the plaint. As already stated, the Court has held that notice under this section should be held to be sufficient if it substantially fulfils its object of informing the parties concerned of the nature of the suit to be filed. On this principle, it has been held that though the terms of the section have to be strictly complied with, that does not mean that the notice should be scrutinised in a pedantic manner divorced from common sense. The point to be considered is whether the notice gives sufficient information as to the nature of the claim such as would the recipient to avert the litigation.”

(emphasis supplied)

68. In the same vein, *Sugandhi v. P. Rajkumar* [*Sugandhi v. P. Rajkumar*, (2020) 10 SCC 706 : (2021) 1 SCC (Civ) 116] promoted an approach that sought to achieve substantial justice when confronted with breaches of procedural law, especially when the other party did not suffer any significant prejudice. This Court opined : (SCC pp. 708-709, para 12)

“9. It is often said that procedure is the handmaid of justice. Procedural and technical hurdles shall not be allowed to come in the way of the court while doing substantial justice. If the procedural violation does not seriously cause prejudice to the adversary

party, courts must lean towards doing substantial justice rather than relying upon procedural and technical violation. We should not forget the fact that litigation is nothing but a journey towards truth which is the foundation of justice and the court is required to take appropriate steps to thrash out the underlying truth in every dispute.”

(emphasis supplied)

69. *A Constitution Bench of this Court in State of U.P. v. Babu Ram Upadhyaya [State of U.P. v. Babu Ram Upadhyaya, 1960 SCC OnLine SC 5 : (1961) 2 SCR 679 : AIR 1961 SC 751], while laying down the test for determining if the legislature intended for a provision to be directory or mandatory in nature, held as follows : (AIR p. 765, para 29)*

“29. ... For ascertaining the real intention of the legislature, the Court may consider, inter alia, the nature and the design of the statute, and the consequences which would follow from construing it the one way or the other, the impact of other provisions where-by the necessity of complying with the provisions in question is avoided, the circumstance, namely, that the statute provides for a contingency of the non-compliance with the provisions, the fact that the non-compliance with the provisions is or is not visited by some penalty, the serious or trivial consequences that flow therefrom, and, above all, whether the object of the legislation will be defeated or furthered.”

(emphasis supplied)”

42. The provision of Order VIII as amended for Commercial Courts still retain the character of the procedural provisions. We are not saying that the time limit is not to be adhered nor that the object with which the Act has been brought into force to decide expeditiously the commercial disputes should be ignored, or that it should be construed to defeat the object; but we say that, the nature of the amended C.P.C applicable to the Commercial Courts Act is

still a procedural law, which cannot be allowed to override the substantive rights even in its application to the Commercial Courts.

43. The striking off the defence, the written statement, has its serious consequences. The defendant would be deprived of the contest on merits by placing his defence. No prejudice would be caused to the plaintiff if the time was granted to explain the delay. If there was sufficient cause the delay could be condoned allowing the written statement, by imposing costs.

44. Learned counsel for the respondent submitted that even an application seeking extension of time could not be filed beyond 120 days. Such an application should accompany the written statement and is to be filed within 120 days. He submitted that after the expiry of the period of 120 days, such an application cannot be filed, even if written statement had been filed within 120 days.

45. In ***Shreevad Consultancy LLP*** (supra), the Delhi High Court held that it is only in the event the defendant is able to make out sufficient cause or demonstrate any extraordinary circumstances, does the Court condone a delay beyond the maximum period of 90 days. In the said case, the written statement was filed on 117th day after the expiry of 90 days, the period permissible in law. No application for condonation of delay was filed along with the written

statement. In the said case, the application for condonation of delay was filed after 20 days, on 28.08.2019 and pertinently, till the date the impugned order was passed on 15.01.2020, the application was not on the record as though the application was filed after 20 days, objections had been raised by the Registry but no steps were taken either to take back the application from the Registry or remove the objection and re-file the same. The Delhi High Court held that the appellants/defendants miserably failed to demonstrate any such circumstances for the Court to have condoned the delay beyond 90 days and consequently, the order rejecting the written statement was upheld.

46. In the case of ***Shreevad Consultancy LLP (supra)***, it has not been held that the application is to be filed within 120 days. We are of the view that though ordinarily, when the written statement is filed beyond 30 days and within 120 days, it should accompany the application stating the reasons. But, if only the written statement has been filed within the period beyond 30 days and without any such application, it cannot be said that the application for condonation of delay giving sufficient reasons, in delayed filing of the written statement cannot be filed afterwards and cannot be filed beyond 120 days. The question if any application is filed beyond

120 days for the delay in filing the written statement filed within 120 days, the same could or could not be filed, was not before the Delhi High Court in **Shreevad Consultancy LLP (supra)** for consideration though there the application was filed beyond 120 days which was not on record. The proposition of law as laid down in **Shreevad Consultancy LLP (supra)** is that if there is no sufficient cause for condonation of delay or the explanation as to why the written statement could not be filed within 30 days, the written statement cannot be allowed. There is no dispute on such a proposition of law.

47. Paras 5 and 6 of **Shreevad Consultancy LLP (supra)** read as under:

“ 5. We may note that the summons in the suit were served on the appellant No.1 on 13.04.2019, which fact remains undisputed, whereas the written statement was filed on 117th day i.e. after the expiry of 90 days, the period permissible in law. For reasons best known to the appellants, no application for condonation of delay was filed along with the written statement. Instead, the same came to be filed after 20 days, on 28.08 2019. Pertinently, till the date of the impugned order came to be passed, the said application was not on the record and on enquiring from learned counsel for the appellants/defendants, he had stated before the learned Single Judge that objections had been raised by the Registry but no steps were taken either to take back the application from the Registry or remove the objections and re-file the same

6. In view of the aforesaid position, we see no reason to accept the submission made by the learned counsel for the appellants that the written statement even though filed after the expiry of 90 days, but before 120 days, ought to have been taken into consideration. It is only in the event a defendant is able to make out sufficient cause or demonstrate any

extraordinary circumstances does the Court condone a delay beyond the maximum period of 90 days. The appellants/defendants have miserably failed to demonstrate any such circumstances for the court to have condoned the delay beyond 90 days.”

48. In ***Friends Motel Pvt. Ltd*** (supra), the written statement was struck off on the ground that the written statement was filed after 90 days and though within 120 days, but any application seeking condonation of delay or explaining sufficient cause was not filed within 120 days. This was confirmed by the Division Bench of the High Court of Delhi in ***Shreevad Consultancy LLP (supra)***.

49. In ***Intiyaz Sheikh*** (supra), the Delhi High Court recorded that in the application for condonation of delay, sufficient cause was not shown for delay in filing the written statement. Only vague and unsubstantiated averments were made. So, no sufficient cause to condone the delay was made out.

50. In ***Intiyaz Sheikh*** (supra), the Delhi High Court referred ***Ambalal Sarabhai Enterprises Ltd. V. K.S.Infraspac LLP(2020) 15 SCC 585***, in which the Hon'ble Apex Court observed that the provisions of the Commercial Courts Act, 2015 have to be strictly construed and if the provisions are given liberal interpretation, the object behind the enactment, of speedy disposal, will be defeated.

51. There is no dispute on the proposition of law that the provisions of the Commercial Courts Act are for speedy disposal and should not be construed in a way so as to defeat the very object of the speedy disposal of the disputes of commercial nature.

52. In ***Ramesh Flowers Private Limited*** (supra), the Madras High Court held that the Trial Courts shall not on their own extend the time for filing the written statement after the expiry of thirty days. It can be done only at the request of the defendant. The request cannot be made orally. It should be in writing. It should contain good reasons. Any written statement filed after thirty days can be accepted only upon condonation of delay in filing the same. The defendant must submit an application and offer proper explanation for the delay. The Madras High Court observed that the Trial Court must bear in mind the caution administered by the Hon'ble the Supreme Court in ***Salem Advocate Bar Association, Tamilnadu v. Union of India***¹⁰ and ***Kailash v. Nanhku***¹¹ and ***Desh Raj v. Balkishan(D) through proposed LR, Ms.Rohini***¹² that the orders condoning delay must contain reasons and cannot be mechanically passed. While condonation of delay is discretionary, recording of

¹⁰ (2005) 6 SCC 344

¹¹ (2005) 4 SCC 480

¹² (2020) 1 CTC 586

reasons is mandatory. Courts should also consider awarding costs while condoning the delay.

53. There is again no dispute on the legal proposition as in ***Flowers Private Limited*** (supra). We are not saying to the contrary what we say is that in cases where sufficient cause is not shown in the written statement filed within 120 days atleast an opportunity, shall be granted to the defendant to state the sufficient cause by filing appropriate application/affidavit, as the provision is procedural and written statement is permitted with 120 days and stopping filing of the written statement has serious civil consequences in advancing substantive justice. In the aforesaid case, the Madras High Court did not lay down that such an opportunity cannot be granted.

54. Learned counsel for the petitioner submitted that in ***Ramesh Flowers Private Limited*** (supra), the Madras High Court while setting aside the order of the learned Special Judge, which allowed the written statement, without there being any explanation for the delay and for no reasons recorded in the order, granted liberty to the defendant to file the written statement along with a petition for condonation of delay with further direction that if the defendant availed that liberty the Court shall allow the condone delay petition and receive the written statement.

55. We find force in the submission of the learned counsel for the petitioner that if the written statement had not been permitted when it was filed on 18.02.2025 since it did not accompany application for condonation of delay stating the reasons, at that time itself, and if it had been so pointed out, the petitioner/defendant would have sufficient time of atleast 10 days, within 120 days, to have filed the application for condonation of delay giving the explanation for the delay. That opportunity has been denied to the petitioner, which should have been granted.

56. For the aforesaid consideration, we are of the view that, the petitioner deserved to be granted an opportunity to file an appropriate application for condonation of delay/leave application in filing the written statement explaining the cause for the delay beyond 30 days upto the date of filing of the written statement dated 18.02.2025 i.e within 120 days.

57. Thus considered, our conclusions are as follows:

- 1) The defendant has to file the written statement within a period of 30 days from the date of receipt of summons;
- 2) After expiry of 30 days the written statement can still be filed and allowed by the Special Court, under the Commercial Courts Act, 2015 but within 120 days outer

limit, if the court is satisfied that there was sufficient cause for condonation of delay and for the reasons to be assigned in the order. The court may also impose the cost as it thinks fit.

- 3) After 120 days outer limit, the defendant shall forfeit the right to file written statement and the written statement shall not be allowed by the Court.
- 4) Order VIII Rule 1 C.P.C in its applicability to the Commercial Court is couched in mandatory words.
 - (i) one mandate is positive. To allow written statement within 120 days subject to the requirements as in sub-para No.2 (supra).
 - (ii) The other mandate is negative. Not to allow after 120 days.
 - (iii) The first mandate in (i) supra, is to be construed liberally in favour of permitting written statement for the 'sufficient cause' and also
 - (iv) To allow to file the application for condonation of delay/permission, to show or furnish the sufficient cause, where such a cause has not been stated

either in the written statement nor accompanied by an application stating further the sufficient cause;

(v) The second mandate (ii) (supra) is to be given effect to strictly, keeping in view of the object and the consequence filing the expiry of the period of 120 days.

5) Order VIII Rule 1 C.P.C even in its applicability to the Commercial Courts Act as amended is a procedural law and even if couched in a mandatory language is still procedural in nature and in dealing with the matter of procedure the old adage of procedural law being handmaid of justice shall be kept in mind.

6) The written statement filed after 30 days but within 120 days must accompany the prayer to condone the delay may be in the application supported with affidavit disclosing the reasons for delay or the reasons may be stated in the written statement itself for the delay. Such an application may accompany the written statement or may be filed subsequently i.e. even beyond 120 days, furnishing the grounds or the sufficient reasons, for a written statement

provided the written statement had already been filed within 120 days.

- 7) It cannot be that such an application cannot be filed beyond 120 days. We make it clear that the written statement cannot be filed beyond 120 days. But for the written statement filed within 120 days, the delay can be explained showing the sufficient cause by filing appropriate application even beyond 120 days.
- 8) In the present case, the written statement was filed within 120 days (on 110th day), on which, an order dated 18.02.2025 was passed recording that the written statement was filed.
- 9) The order dated 18.02.2025, without recording reasons and allowing the written statement, cannot come to the bereft of the petitioner but the interest of justice required to grant an opportunity to the defendant to file the application and to explain the delay by showing sufficient cause, instead of straightway rejecting the written statement having been filed beyond 30 days.
- 10) The defendant should have been granted an opportunity to explain the delay and to show the sufficient

cause for the acceptance of the written statement within 120 days though filed beyond 30 days.

Result:

58. In the result,
- (a) We set aside the order dated 26.12.2025 in I.A.No.58 of 2025 in C.O..SNo.24 of 2024 on the file of the Special Court for Trial and Disposal of Commercial Disputes, Vijayawada,
 - (b) We grant an opportunity to the petitioner to file an application seeking condonation of delay or leave application stating the sufficient cause for delay in already filed written statement beyond 30 days but within 120 days, before the learned Special Judge within a period of 15 days from the date of receipt of copy of this judgment.
 - (c) On such application being filed, the same will be considered and decided in accordance with law by a reasoned and speaking order within a period of two months from the date of filing of the application with the cooperation of the parties.

- (d) This petition is allowed with the aforesaid directions, imposing costs of Rs.10,000/- (Rupees Ten thousand only) on the petitioner. The cost shall be deposited before the learned Special court and shall be payable to the respondent/plaintiff by such Court.

As a sequel, interlocutory applications pending if any, shall stand closed.

RAVI NATH TILHARI, J

MAHESWARA RAO KUNCHEAM, J

Date: 17.03.2026.

Note:

L.R. copy to be marked.

B/o.

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**THE HONOURABLE SRI JUSTICE RAVI NATH TILHARI
THE HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM**

CIVIL REVISION PETITION No.214 of 2026

.03.2026

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