

SAVY FASHIONS V/S NATIONAL INSURANCE

**J&K STATE CONSUMER DISPUTES REDRESSAL COMMISSION
JAMMU**

M.A. No. 521 of 2013 [Application for C.O.D. & Application for Restoration]

DT. OF INSTITUTION:12/06/2013, DT OF DISPOSAL 14/08/2026

[Arising out of the order dared 09/08/2010 passed by the Ld. District Commission, Jammu
in the Complaint No. 463/DFJ]

CASE TITLE:

SAVY FASSHION PVT. LTD., NIFD CAMPUS, KARAN MARKET JAMMU, THROUGH
MANAGING DIRECTOR THAKUR ASHWANI SINGH.

---APPLICANT

VERSUS

NATIONAL INSURANCE COMPANY LTD., THROUGH ITS DIVISIONAL MANAGER,
SHALAMAR ROAD, JAMMU

---NON-APPLICANT

CORAM:

SMT. NIGHAT SULTANA, PRESIDENT (O)

SH. MAHEEP GUPTA, MEMBER

PARTIES REPRESENTED BY:

Ms. YASHODHAN THAKUR, LD. COUNSEL FOR THE PETITIONER.

SH. VISHNU GUPTA, LD. COUNSEL FOR THE RESPONDENT.

ORDER DT. 14/08/2026 – PER SH. MAHEEP GUPTA, MEMBER

1. The petitioner has filed the instant petition praying for setting aside the orders passed by the Ld. District Commission, Jammu on 09/08/2010 in CC NO. 463/DFJ whereby the complainant was dismissed due to non-prosecution.
2. Heard the counsels, perused the records.
3. Perusal of the application for condonation of delay would reveal that the Applicant had earlier filed an application for restoration with the Ld. District Commission itself on 17/11/2012 and upon realizing that the District

Commission lacks the power to review its own decision the applicant withdrew the said application on 30/05/2013.

4. Perusal of the order dated 30/05/2013 would reveal that the applicant was allowed to withdraw his application for restoration and liberty was granted to him to approach the appropriate forum.
5. Ld. Counsel for the applicant contends that there was a Bonafide mistake on their part that they approached a wrong forum and immediately on realizing their mistake they withdrew their application and approached this commission and the delay in filing the instant application should be condoned.
6. Admittedly, the time spent in agitating the issue before a wrong forum under the false impression deserves to be condoned. However, in the instant case it cannot be overlooked that the earlier application filed before the Id. District Commission was also filed belatedly and we also need to check the reasons for delay in filing the said application.
7. On the perusal of the application for condonation of delay as filed by the applicant before the Ld. District Commission would reveal that the applicant had attributed the delay to the negligence of the erstwhile counsel who failed to inform the applicant/complainant of the dismissal of his complaint on 09/08/2010 by the Ld. District Commission.
8. The relevant extract of the application for condonation of delay as filed before the Ld. District Commission is reproduced below:

“1. That the above titled complaint was pending disposal before this Hon'ble forum and on 9-08-2010 the Hon'ble Court vide its Order dated 9-08-2010 dismissed in default as the counsel of the petitioner was not appearing.

2. That the petitioner now has changed his counsel and the new counsel has filed this restoration application after the delay of about 1 year 11 months and 14 days, so the counsel prays to the Hon'ble Court to delay the period of condonation.

3. That on 9-08-2010 when the said case was listed for hearing before the Hon'ble Court and when it was called, the ex-counsel for the petitioner i.e. Mr. P.S. Pawar could not make his appearance before the Hon'ble court as a result of which the case was dismissed in default.

4. That the said counsel further negligent as he utterly failed to inform the petitioner about the listing of the said petition before the Hon'ble forum on 9-08-2010 which prevented the petitioner from causing in personal appearance before the Hon'ble forum on said date. To compound the matter further the said counsel after passing of the order dated 9-08- 2010 did not informed the petitioner about dismissal of the complaint.

5. That on 26-09-2012, the applicant visited the chamber of his ex-counsel Mr. P.S. Pawar to know about the status of the case when he was told by his previous counsel that the case has not been listed long. The applicant on very next day i.e. 27-09-2012 visited the court and on checking shocked to know that the case has been dismissed in default on 9-08-2010. On the same day the applicant applied for the issuance of the certified copy of the order dated 9-08-2010 and is now before the Hon'ble Forum seeking its kind indulgence to set aside the order dated 9-08-2010 by keeping in consideration the helplessness of the complaint."

9. From the perusal of the records, it is observed that the learned counsel for the applicant/complainant during the proceedings in respect of pending complaint before the Ld. District Commission caused his presence for the last time on 09/11/2009 and thereafter remained absent on 06/01/2010, 16/02/2010, 30/04/2010, 17/05/2010, 06/07/2010 & also on 09/08/2010 when the Ld. District Commission eventually dismissed the complaint for non-prosecution.
10. It is true that under normal circumstances, the applicant/complainant cannot be made to suffer for the negligence on the part of the counsel, however, it is also true that the applicant/ complainant is equally responsible for keeping a track of his case.

It is clear that the counsel for the complainant was not causing appearance since 09/11/2009 and the complaint was eventually dismissed for non-prosecution and as per the self-admission of the applicant/ complainant he came to know of the fact only on 27/09/2012.

No justification has been provided by the applicant/complainant for his failure to keep track of the status of his case.

We are of the considered opinion that the applicant/complainant himself was negligent and he cannot shift the entire blame on his counsel. It is also

important to note here that the applicant/complainant under question is a Private Limited Company and is expected to much more vigilant in keeping track of its pending cases as compared to an individual complainant.

11. We are of the considered opinion, that the applicant had failed to provide any just and reasonable ground to justify the delay in filing the application for the restoration of his complaint.

Application for condonation of delay is Dismissed and consequently the application for restoration of complaint is also Dismissed.

ORDER

1. Application for condonation of delay is Dismissed and consequently the application for restoration of complaint is also Dismissed.
2. Parties to bear their own costs.
3. Office is directed to send back the records pertaining to the District Commission.
4. Office is also directed to provide a Certified Copy of this order to all the stakeholders & consign the file to records after due compilation.

Announced on 14/08/2026.

**(Maheep Gupta)
Member**

**(Nighat Sultana)
President (O)**