Item No. 26 Court No. 1

BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Appeal No.14/2026
(I.A. No. 146/2026, IA No. 270/2026)

Ajay Dubey Appellant

Versus

Union of India & Ors. Respondent(s)

Date of hearing: 22.04.2026

CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER
HON'BLE DR. AFROZ AHMAD, EXPERT MEMBER

Appellant: Mr. Siddharth R. Gupta, Mr. Mrigank Prabhakar, Mr. Shantanu Sharma, Mr. Aman Agarwal, Mr. Uddairh Palya, Ms. Aastha Singh & Ms. Surbhi Saxena, Advs. for Appellant

Respondents: Mr. A.S. Nadkarni, Senior Advocate with Mr. Mahesh Agarwal, Mr. Arshit Anand, Ms. Geetika Sharma & Ms. Parmita Mishra, Advs. for R - 7

ORDER

1. By this Appeal filed under Section 16(e) of the National Green Tribunal Act, 2010 (NGT Act), the Appellant has challenged the order dated 09.05.2025 issued by the Ministry of Environment, Forest and Climate Change (MoEF&CC) (Forest Conservation Division) granting final approval/permission for diversion of the forest in favour of the Respondent No. 7-M/s Stratatech Mineral Resources Pvt. Ltd. The Appellant has also challenged the order of the Government of Madhya Pradesh, Forest Department dated 22.05.2025 giving consent to the final approval granted by the Government of India. There is a delay in filing the Appeal, therefore, IA No. 146/2026 has been filed by the Appellant seeking condonation of delay. The Respondent No. 7 has filed reply to this IA and opposed the prayer for condoning the delay.

2. We have heard the learned counsel for the parties on the issue of condonation of delay.

3. Learned counsel appearing for the Appellant submits that the limitation is required to be calculated from December, 2025 when the deforestation activity on the field started and the Appellant came to know about the impugned permissions. He has submitted that the protest and agitations were highlighted in the local newspaper, therefore, the impugned orders came to public domain in December, 2025. Thereafter, the Appellant collected the relevant papers from different sources and could prepare the Appeal for filing by 15th /16th January, 2026. The plea of the Appellant is that the impugned orders were never publicized till December, 2025, therefore, limitations is required to be calculated from the month of December, 2025 and delay is required to be condoned. It is the further stand of the Appellant that the Appellant had earlier filed OA No. 116/2026 and this Appeal has been filed in furtherance of the order dated 17.02.2026 passed in the OA No. 116/2026.

4. Learned counsel for the Respondent No. 7 has submitted that the Appeal has been filed beyond the condonable period of 90 days and there is an unexplained delay of 259 days in filing the Appeal and the limitation will start from the date the impugned orders were uploaded on the website of the MoEF&CC and came to the public domain. The plea of the Respondent No. 7 is that on 09.05.2025 itself the order passed by the MoEF&CC was uploaded. Therefore, no case is made out for condoning the delay.

5. We have heard the learned counsel for the parties and perused the record.

6. The main impugned order is dated 09.05.2025 whereby the MoEF&CC, Government of India had approved the diversion of the forest

land. The State of MP has only passed the consequential order on 22.05.2025.

7. This Appeal has filed on 23.02.2026. Earlier the Appellant had filed OA No. 116/2026 challenging the impugned order in the OA wherein the order dated 17.02.2026 was passed permitting the Appellant to challenge the impugned order in separate appeal.

8. Calculating the limitation from order dated 09.05.2025 there is delay of 259 days in filing the Appeal. Even if the period which is spent by the Appellant in prosecuting the OA No. 116/2026 is excluded, the appeal has been filed much beyond 90 days from the date of impugned order.

9. In terms of the Section 16 of the NGT Act the limitation for filing the Appeal is 30 days and in terms of the proviso thereof the delay of upto 60 days can be condoned. Relevant extract of Section 16 is as under:-

> "***16. Tribunal to have appellate jurisdiction.*** *- Any person aggrieved by, -*
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> *(a) to (j).....xxx xxx xxx*
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> *may, within a period of thirty days from the date on which the order or decision or direction or determination is communicated to him, prefer an appeal to the Tribunal:*
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> *Provided that the Tribunal may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed under this section within a further period not exceeding sixty days."*

10. A bare reading of the above provision shows that after expiry of 90 days from the date of communication of order, the Tribunal loses jurisdiction to condone the delay. The law in this regard is well settled by the six-Member Bench of the Tribunal in MA No. 247/2012 in the matter of *Nikunj Developers vs. State of Maharashtra & Ors.* by order dated

14.03.2013 wherein the Tribunal after taking note of the provision Section 16 of the NGT Act has held as under:-

"xxx xxx xxx

16. Once the above principles are analytically analysed, it becomes evident that the Courts have not stated any hard and fast rule which shall be universally applicable for determining such controversy. It will always depend upon the facts of given case. If the Tribunal has jurisdiction to condone the delay and there is 'sufficient cause' shown and the same is backed by bonafide and proper conduct of the parties, the Tribunal would be inclined to condone the delay rather than dismissing the same for such reasons.

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19. From language of the above provision it is clear that the Tribunal loses jurisdiction to condone the delay if the delay is of more than 90 days. Every appeal has to be filed within 30 days from the date of communication of the order. That is, what an applicant is required to ensure before the appeal is heard on merits. However, the Tribunal has been vested with the jurisdiction to entertain the appeal which is filed after 30 days from the date of communication of an order. This power to condone the delay has a clear inbuilt limitation as it ceases to exist if the appeal is filed in excess of 60 days, beyond the prescribed period of limitation of 30 days from the date of communication of such order. To put it simply, once the period of 90 days lapses from the date of communication of the order, the Tribunal has no jurisdiction to condone the delay. The language of the provision is clear and explicit. It admits of no ambiguity and the legislative intent that Tribunal should not and cannot condone the delay in excess of 90 days in all, is clear from the plain language of the provision.

20. As stated in the cases Hiralal Ratan Lal and India Houses (supra) the period of limitation statutorily prescribed, has to be strictly adhered to and cannot be relaxed and or departed from, on equitable consideration. Further, in construing a statutory provision, the first and the foremost rule of construction is that of literary construction. We do not see any reason to expand the scope of the provision and interpret the proviso to Section 16 in the manner that Tribunal can be vested with the power of condoning the delay beyond 90 days. Such interpretation would be contrary to the specific language of the Section and would defeat the very legislative intent and object behind this provision.

21. This controversy need not detain us any further as it is no more res integra and stands answered by the judgment of the Supreme Court in the case of Chhattisgarh State Electricity Board Vs. Central Electricity Regulatory Commission and others (2010) 5 SCC 23 where the court held as under:

> *"29. Section 34(3) of the Arbitration and Conciliation Act, 1996, which is substantially similar to Section 125 of the Electricity Act came to be interpreted in Union of India v. Popular Construction Company : (2001) 8 SCC 470. The precise question considered in that case was whether the provisions of Section 5 of the Limitation Act are applicable to an application challenging an award under Section 34 of the Arbitration and Conciliation Act, 1996. The two Judge Bench referred to earlier decisions in Mangu Ram v. Municipal Corporation of Delhi: (1976) 1 SCC 392, Vidyacharan Shukla v. Khubchand Baghel AIR*

1964 SC 1099, Hukumdev Narain Yadav v. L.N. Mishra (supra), Patel Naranbhai Marghabhai v. Dhulabhai Galbabhai : (1992) 4 SCC 264 and held:

> *12. As far as the language of Section 34 of the 1996 Act is concerned, the crucial words are "but not thereafter" used in the proviso to Sub section (3). In our opinion, this phrase would amount to an express exclusion within the meaning of Section 29(2) of the Limitation Act, and would therefore bar the application of Section 5 of that Act. Parliament did not need to go further. To hold that the court could entertain an application to set aside the award beyond the extended period under the proviso, would render the phrase "but not thereafter" wholly otiose. No principle of interpretation would justify such a result.*
>
> *16. Furthermore, Section 34(1) itself provides that recourse to a court against an arbitral award may be made only by an application for setting aside such award "in accordance with" Sub-section (2) and Sub-section (3). Sub-section (2) relates to grounds for setting aside an award and is not relevant for our purposes. But an application filed beyond the period mentioned in Section 34, Sub-section (3) would not be an application "in accordance with" that Sub section. Consequently by virtue of Section 34(1), recourse to the court against an arbitral award cannot be made beyond the period prescribed. The importance of the period fixed under Section 34 is emphasised by the provisions of Section 36 which provide that*
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> > *"where the time for making an application to set aside the arbitral award under Section 34 has expired ... the award shall be enforced under the Code of Civil Procedure, 1908 in the same manner as if it were a decree of the court".*
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> > *This is a significant departure from the provisions of the Arbitration Act, 1940. Under the 1940 Act, after the time to set aside the award expired, the court was required to "proceed to pronounce judgment according to the award, and upon the judgment so pronounced a decree shall follow" (Section 17). Now the consequence of the time expiring under Section 34 of the 1996 Act is that the award becomes immediately enforceable without any further act of the court. If there were any residual doubt on the interpretation of the language used in Section 34, the scheme of the 1996 Act would resolve the issue in favour of curtailment of the court's powers by the exclusion of the operation of Section 5 of the Limitation Act.*
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> *(emphasis supplied)*

30. In Singh Enterprises v. C.C.E., Jamshedpur and Ors. (supra), the Court interpreted Section 35 of Central Excise Act, 1944, which is pari materia to Section 125 of the Electricity Act and observed:

> *8. The Commissioner of Central Excise (Appeals) as also the Tribunal being creatures of statute are vested with jurisdiction to condone the delay beyond the permissible period provided under the statute. The period up to which the prayer for condonation can be accepted is statutorily provided. It was submitted that the logic of Section 5 of the Limitation Act, 1963 (in short "the Limitation Act") can be availed for condonation of delay. The first proviso to Section 35 makes the position clear that the appeal has to be preferred within three months from the date of communication to him of the decision or order. However, if the Commissioner is satisfied that the appellant*

was prevented by sufficient cause from presenting the appeal within the aforesaid period of 60 days, he can allow it to be presented within a further period of 30 days. In other words, this clearly shows that the appeal has to be filed within 60 days but in terms of the proviso further 30 days' time can be granted by the appellate authority to entertain the appeal. The proviso to Sub-section (1) of Section 35 makes the position crystal clear that the appellate authority has no power to allow the appeal to be presented beyond the period of 30 days. The language used makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning delay only up to 30 days after the expiry of 60 days which is the normal period for preferring appeal. Therefore , there is complete exclusion of Section 5 of the Limitation Act. The Commissioner and the High Court were therefore justified in holding that there was no power to condone the delay after the expiry of 30 days' period.

(emphasis supplied)"

22. The same view was reiterated in Commissioner of Customs, Central Excise v. Punjab Fibres Ltd. : (2008) 3 SCC 73.

"31. In Commissioner of Customs and Central Excise v. Hongo India Private Limited and Anr. (2009) 5 SCC 791, a three-Judge Bench considered the scheme of the Central Excise Act, 1944 and held that High Court has no power to condone delay beyond the period specified in Section 35H thereof. The argument that Section 5 of the Limitation Act can be invoked for condonation of delay was rejected by the Court and observed:

"30. In the earlier part of our order, we have adverted to Chapter VI-A of the Act which provides for appeals and revisions to various authorities. Though Parliament has specifically provided an additional period of 30 days in the case of appeal to the Commissioner, it is silent about the number of days if there is sufficient cause in the case of an appeal to the Appellate Tribunal. Also an additional period of 90 days in the case of revision by the Central Government has been provided. However, in the case of an appeal to the High Court under Section 35G and reference application to the High Court under Section 35H, Parliament has provided only 180 days and no further period for filing an appeal and making reference to the High Court is mentioned in the Act.

32. As pointed out earlier, the language used in Sections 35, 35B, 35EE, 35G and 35H makes the position clear that an appeal and reference to the High Court should be made within 180 days only from the date of communication of the decision or order. In other words, the language used in other provisions makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning the delay only up to 30 days after expiry of 60 days which is the preliminary limitation period for preferring an appeal. In the absence of any clause condoning the delay by showing sufficient cause after the prescribed period, there is complete exclusion of Section 5 of the Limitation Act. The High Court was, therefore, justified in holding that there was no power to condone the delay after expiry of the prescribed period of 180 days.

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XXXXX XXXXX

35. It was contended before us that the words "expressly excluded" would mean that there must be an express reference made

in the special or local law to the specific provisions of the Limitation Act of which the operation is to be excluded. In this regard, we have to see the scheme of the special law which here in this case is the Central Excise Act. The nature of the remedy provided therein is such that the legislature intended it to be a complete code by itself which alone should govern the several matters provided by it. If, on an examination of the relevant provisions, it is clear that the provisions of the Limitation Act are necessarily excluded, then the benefits conferred therein cannot be called in aid to supplement the provisions of the Act. In our considered view, that even in a case where the special law does not exclude the provisions of Sections 4 to 24 of the Limitation Act by an express reference, it would nonetheless be open to the court to examine whether and to what extent, the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation. In other words, the applicability of the provisions of the Limitation Act, therefore, is to be judged not from the terms of the Limitation Act but by the provisions of the Central Excise Act relating to filing of reference application to the High Court.

(emphasis supplied)

32. In view of the above discussion, we hold that Section 5 of the Limitation Act cannot be invoked by this Court for entertaining an appeal filed against the decision or order of the Tribunal beyond the period of 120 days specified in Section 125 of the Electricity Act and its proviso. Any interpretation of Section 125 of the Electricity Act which may attract applicability of Section 5 of the Limitation Act read with Section 29(2) thereof will defeat the object of the legislation, namely, to provide special limitation for filing an appeal against the decision or order of the Tribunal and proviso to Section 125 will become nugatory."

23. Section 34 of the Arbitration and Conciliation Act, 1996 uses the expression 'not thereafter' while the provision under our consideration uses the terms 'not exceeding'. Both these expressions use negative language. The intention is to divest the Courts/Tribunals from power to condone the delay beyond the prescribed period of limitation. Once such negative language is used, the application of provisions of Section 5 of the Limitation Act or such analogous provisions would not be applicable.

24. The use of negative words has an inbuilt element of 'mandatory'. The intent of legislation would be to necessarily implement those provisions as stated.

25. Introduction or alteration of words which would convert the mandatory into directory may not be permissible. Affirmative words stand at a weaker footing than negative words for reading the provisions as 'mandatory'. It is possible that in some provision, the use of affirmative words may also be so limiting as to imply a negative. Once negative expression is evident upon specific or necessary implication, such provisions must be construed as mandatory. The legislative command must take precedence over equitable principle. The language of Section 16 of the NGT Act does not admit of any ambiguity, rather it is explicitly clear that the framers of law did not desire to vest the Tribunal with powers, specific or discretionary, of condoning the delay in excess of total period of 90 days. At this stage, we may also refer to Principle of it is stated as under:

"(c) Use of negative words

Another mode of showing a clear intention that the provision enacted is mandatory, is by clothing the command in a negative form. As stated by CRAWFORD: "Prohibitive or negative words can rarely, if ever, be directory. And this is so even though the statute provides no penalty for disobedience." As observed by SUBBARAO, J.: "Negative words are clearly prohibitory and are ordinarily used as a legislative

device to make a statute imperative". Section 80 and Section 87-B of the Code of Civil Procedure, 1908; section 77 of the Railways Act, 1890; Section 15 of the Bombay Rent Act, 1947; section 213 of the Succession Act, 1925; section 5-A of the Prevention of Corruption Act, 1947; section 7 of the Stamp Act, 1899; section 108 of the Companies Act, 1965; section 20(1) of the Prevention of Food Adulteration Act, 1954; section 55 of the Wild Life Protection Act, 1972 (as amended in 1956); section 10A of Medical Council Act, 1965 (as amended in 1993) and similar other provisions have therefore, been construed as mandatory. A provision requiring 'not less than three months' notice' is also for the same reason mandatory.

But the principle is not without exception. Section 256 of the Government of India, 1953, was construed by the Federal Court as directory though worded in the negative form. Directions related to solemnization of marriages though using negative words have been construed as directory in cases where the enactments in question did not provide for the consequence that the marriage in breach of those directions shall be invalid. Considerations of general inconvenience, which would have resulted in holding these enactments mandatory, appear to have outweighed the effect of the negative words in reaching the conclusion that they were in their true meaning merely director. An interesting example, where negative words have been held to be directory, is furnished in the construction of section 25-F of the Industrial Dispute Act, 1947, where compliance of clause (c) has been held to be directory; although compliance of clauses (a) and (b) which are connected by the same negative words is understood as mandatory. These cases illustrate that the rule, that negative words are usually mandatory, is like any other rule subordinate to the context, and the object intended to be achieved by the particular requirement."

26. The provision of Section 16 of the NGT Act are somewhat similar to Section 34 of Arbitration and Conciliation Act, 1996. Thus, adopting an analogous reasoning, as was adopted in Chhattisgarh State Electricity Board (supra), we would have no hesitation in coming to the conclusion that we have no jurisdiction to condone the delay when the same is in excess of 90 days from the date of communication of the order to any person aggrieved."

11. Thus, it is settled that after the expiry of the 90 days from the date of communication of the order impugned the Tribunal has no jurisdiction to condone the delay in filing the Appeal.

12. In the present case, it is required to determine as to on what date the impugned order was communicated to the Appellant. In terms of the Section 16 of the NGT Act, the limitation commences from the date of communication of the order. A five-Member Bench of the Tribunal in MA No. 104/2012 in the case of *Save Mon Region Federation & Anr. Vs. UOI & Ors.* by the order dated 14.03.2013 has settled this issue by holding that date of communication of the order to the general public is the date of

uploading the order on the website of the concerned Ministry/Department. The Tribunal in the case of *Save Mon Region Federation* (supra) in this regard has held as follows:-

> *"xxx xxx xxx*
>
> *17. The expression 'is communicated to him', thus, would invite strict construction. It is expected that the order which a person intends to challenge is communicated to him, if not in personam than in rem by placing it in the public domain. 'Communication' would, thus, contemplate complete knowledge of the ingredients and grounds required under law for enabling that person to challenge the order. 'Intimation' must not be understood to be communication. 'Communication' is an expression of definite connotation and meaning and it requires the authority passing the order to put the same in the public domain by using proper means of communication. Such Communication will be complete when the order is received by him in one form or the other to enable him to appropriately challenge the correctness of the order passed.*
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> *18. Law gives a right to 'any person' who is 'aggrieved' by an order to prefer an appeal. The term 'any person' has to be widely construed. It is to include all legal entities so as to enable them to prefer an appeal, even if such an entity does not have any direct or indirect interest in a given project. The expression 'aggrieved', again, has to be construed liberally. The framers of law intended to give the right to any person aggrieved, to prefer an appeal without any limitation as regards his locus or interest. The grievance of a person against the Environmental Clearance may be general and not necessarily person specific. This provision of Section 16 requires communication of the order to such person(s). The expression 'him' takes within its ambit 'any person' who is aggrieved by an order. Therefore, the expression 'communication' accordingly has to receive a more generic and at the same time, definite meaning. The nature of the communication has to be such that it reaches the public at large, as that appears to be the legislative intent. A person is expected to, and can, only act when the order is put in public domain. He is expected to download the same from the website of the concerned Ministry/Department, and if he so requires thereafter, make an application for receiving specific information. However, the content of the order is required to be communicated by the MoEF as well as by the Project Proponent.*
>
> *19. The limitation as prescribed under Section 16 of the NGT Act, shall commence from the date the order is communicated. As already noticed, communication of the order has to be by putting it in the public domain for the benefit of the public at large. The day the MoEF shall put the complete order of Environmental Clearance on its website and when the same can be downloaded without any hindrance or impediments and also put the order on its public notice board, the limitation be reckoned from that date. The limitation may also trigger from the date when the Project Proponent uploads the Environmental Clearance order with its environmental conditions and safeguards upon its website as well as publishes the same in the newspapers as prescribed under Regulation 10 of the Environmental Clearance Regulations, 2006. It is made clear that such obligation of uploading the order on the website by the Project Proponent shall be complete only when it can simultaneously be downloaded without delay and impediments. The limitation could also commence when the Environmental Clearance order is displayed by the local bodies, Panchayats and Municipal Bodies along with the concerned departments of the State Government displaying the same in the manner afore indicated. Out of the three points, from which the limitation could commence and be computed, the earliest in point of time shall be the relevant date and it will have to be determined with*

reference to the facts of each case. The applicant must be able to download or know from the public notice the factum of the order as well as its content in regard to environmental conditions and safeguards imposed in the order of Environmental Clearance. Mere knowledge or deemed knowledge of order cannot form the basis for reckoning the period of limitation."

13. The Hon'ble Supreme Court also in the matter of *Talli Gram Panchayat vs. Union of India & Ors.* reported in *2025 SCC OnLine SC 2497* has considered this issue and in reference to communication of the order concerning the grant of Environmental Clearance which is required to be uploaded on the website and advertised by the Project Proponent in two local newspapers, has held that the communication is complete when the person aggrieved receives information from the earliest of the communication. The Hon'ble Supreme Court has noted and approved the order of the Tribunal in the matter of *Save Mon Region Federation vs. UOI & Ors.* and accordingly held that:-

"xxx xxx xxx

17. NGT returned a definitive factual finding that the EC dated 05.01.2017 was uploaded on the MoEF&CC website on 05.01.2017 and found that there is "enough proof thereof on record". This finding implies that the EC was placed in public domain and was accessible and downloadable. The NGT specifically rejected the appellant's contention that they came to know about the EC only through an RTI application on 14.02.2017, terming it a "pretext to bring the said appeal within the period of limitation".

18. Given the NGT's finding that the EC was uploaded and made publicly accessible on 05.01.2017, 30 days limitation period will commence from that date. If so, the maximum period of 90 days expired by the time the appellant filed its appeal on 19.04.2017. There is no error in the conclusion drawn by the Tribunal, it has rightly dismissed the appeal on the ground of limitation.

19. It is also argued by the appellant that the project proponent has failed to publish the entirety of the EC in the two newspapers as mandated by Clause 10 of the EIA Notification. This argument is based on the premise that if there is a failure to publish the entirety of the EC in the newspapers, the project proponent would have failed in its duty 'to communicate'. In our opinion, interpreting Clause 10 of the EIA Notification in this manner would be pedantic, rather than subserving the purpose and object of the statutory requirement of communicating and publishing the grant of EC."

14. In the present case, the Respondent No. 7 has placed on record the relevant documents on page 291 showing that order dated 09.05.2025 was

uploaded on the same day in the Ministry's website. Learned counsel has also pointed out that the last page of the impugned order wherein it was digitally signed on the same day and sent for uploading to the Parivesh portal. These documents have not been disputed. Hence, the limitation had commenced from 09.05.2025 and the present Appeal has been filed beyond the period of 90 days.

15. Therefore, in view of the settle legal position, the Tribunal has no jurisdiction to condone the delay beyond the 90 days period whereas the present appeal has been filed with a delay of 259 days. Hence, no case is made out to allow the prayer made in the IA No. 146/2026. IA No. 146/2026 is accordingly rejected and consequentially, the Appeal is dismissed.

16. Pending IA, if any, also stands disposed of.

Prakash Shrivastava, CP

Dr. A. Senthil Vel, EM

Dr. Afroz Ahmad, EM

April 22, 2026
Appeal No.14/2026
(I.A. No. 146/2026, IA No. 270/2026)
A