IN THE COMPANIES TRIBUNAL OF THE REPUBLIC OF SOUTH AFRICA

CASE NO: CT02693ADJ2026

In the matter between:

APEX AUTOSERVICE CENTRE PROPRIETARY LIMITED	**APPLICANT**
and	
APEX PERFORMANCE CLUTCH AND BRAKE PROPRIETARY LIMITED	**RESPONDENT**

Presiding Member: Brian Jennings

Date of handing down of decision: 3 November 2026

DECISION

Introduction

1 The applicant is Apex Autoservice Centre Proprietary Limited.

2 The respondent is Apex Performance Clutch and Brake Proprietary Limited.

3 The applicant has applied for a default judgment against the respondent in terms of Regulation 153(1) to the Companies Act. The requirements for a default order are as follows:

3.1 the applicant must have served the respondents with an initiating document;

3.2 the respondents must not have filed a response within the prescribed period; and

3.3 the applicant must have applied to have the order, as applied for, issued against the respondents by the Tribunal.

Serving the respondents with an initiating document

4 On 30 March 2026, the applicant lodged Form CTR 142 in terms of section 160 of the Companies Act for an order that the respondent's name be ordered to be contrary to section 11(2) of the Companies Act.

5 The Form CTR 142 was stamped by the Tribunal on 10 April 2026.

6 The applicant was then required to serve a copy of the application and affidavit on the respondent **within 5 business days** after the date on which the Tribunal stamped the Form CTR 142 as required by Regulation 142(2).

7 Therefore, on my calculation, service by the applicant on the respondent should have occurred by 17 April 2026.

8 However, the applicant (as per the proof of service provided to me) only served the application on the respondent on 30 April 2026 at the earliest.[1] Therefore the applicant has not complied with Regulation 142(2) and, unfortunately, the case cannot proceed on the current construct. The proper remedy is an application for condonation of late filing.

9 It is also not proper to hear the application for a default order as, as a natural corollary, I am not satisfied that service of the initiating document was properly effected as contemplated in Regulation 153(2)(b).

Order

In the circumstances, the application is refused.

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BRIAN JENNINGS
MEMBER OF THE COMPANIES TRIBUNAL

[1] I have been provided with a letter dated 30 April 2026 in which the applicant alleges that the letter and the documents referenced therein were physically served by hand on the respondent but for which the respondent failed to sign any acknowledgement of receipt. I have also been provided with an email dated 8 May 2026 where the applicant served the application on the respondent via email.