



CNR: KAHC010210942024

NC: 2026:KHC:36966-DB
COMAP No. 128 of 2024

**IN THE HIGH COURT OF KARNATAKA AT BENGALURU
DATED THIS THE 17TH DAY OF JULY, 2026**

PRESENT

THE HON'BLE MRS. JUSTICE ANU SIVARAMAN

AND

THE HON'BLE MR. JUSTICE VENKATESH NAIK T

COMMERCIAL APPEAL NO.128 OF 2024

BETWEEN:

THE STATE OF KARNATAKA
REPRESENTED BY COMMISSIONER
OF FOOD, CIVIL SUPPLIES AND
CONSUMER AFFAIRS DEPT.,
NO.8 CUNNINGHAM ROAD,
BENGALURU

...APPELLANT

(BY SRI. REUBEN JACOB, AAG A/W
SRI. ARUNA G.S., AGA)

AND:

1. DIRECTOR
M/S COMAT
TECHNOLOGIES PVT. LTD.,
NO.G 103/112/1, 4th MAIN ROAD,
KSIDC
INDUSTRIAL ESTATE
6th BLOCK, RAJAJINAGAR
BENGALURU 560 044

Digitally
signed by
PAVITHRA N

Location:
High Court
of Karnataka



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2. SHRI. JUSTICE (RETD)
T JAYARAMA CHOUTHIA
NO.385, 5th MAIN ROAD,
11th CROSS,
RAJ MAHAL VILAS II STAGE,
BENGALURU 560 094

...RESPONDENTS

(BY SRI. MAHADEVAN K. S., ADV. FOR R1)

THIS COMAP IS FILED UNDER SECTION 13(1A) OF THE
COMMERCIAL COURTS ACT, 2015 READ WITH SECTION
37(1)(C) OF THE ARBITRATION AND CONCILIATION ACT, 1996,
PRAYING 1. TO CALL FOR RECORDS IN COM.A.S.No.234/2018
FROM THE COURT OF LXXXVIII ADDITIONAL CITY CIVIL AND
SESSIONS JUDGE (CCH-89) COMMERCIAL COURT, BANGALURU
AND ETC.

THIS APPEAL, COMING ON FOR ORDERS, THIS DAY,
JUDGMENT WAS DELIVERED THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE ANU SIVARAMAN
and
HON'BLE MR. JUSTICE VENKATESH NAIK T



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ORAL JUDGMENT

(PER: HON'BLE MR. JUSTICE VENKATESH NAIK T)

This Commercial Appeal is preferred under Section 13(1-A) of the Commercial Courts Act, 2015, against the judgment dated 29.08.2023 passed in Com.A.S.No.234/2018 by the LXXXVIII Additional City Civil and Sessions Judge, Commercial Court, at Bengaluru ('Commercial Court' for short).

2. Heard Sri. Reuben Jacob, learned Additional Advocate General along with Sri. Aruna G.S., Additional Government Advocate appearing for the appellant as well as Sri. Mahadevan K.S., learned counsel appearing for respondent No.1.

3. The appellant had filed an application before the Commercial Court under Section 34 of the Arbitration and Conciliation Act, 1996 (for short " Arbitration Act"), seeking to set aside the arbitral award passed by the sole arbitrator dated 20th/23rd August 2018. The Commercial Court, after considering the material on record proceeded to dismiss the same. Being aggrieved by the same, the present appeal is filed along with



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an application in IA No.1/2024 under Section 5 of the Limitation Act, 1963 seeking condonation of delay of 158 days in filing the appeal.

4. Sri. Reuben Jacob, learned Additional Advocate General appearing for the appellant submits that the Competent Authority of the appellant has filed an affidavit and better affidavit also on behalf of the appellant along with an application seeking for condonation of delay. It is submitted that the impugned order is passed beyond the scope of jurisdiction and the same is also in conflict with the public policy, which is required to be considered on merits. It is further submitted that the delay in filing the appeal is due to the necessary administrative approvals that are to be obtained by the appellant which is *bona fide* in nature. Hence, he seeks to condone the delay of 158 days in filing the appeal and he seeks to hear the matter on merits.

5. Sri. Mahadevan K.S., learned counsel appearing for respondent No.1 while justifying judgment passed by the Commercial Court, contended that, all payments were made to the appellant, only after the appellant officially verified the



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records and approved payment, and there is no merit in the claim that it was paid for the work not done. The Arbitral Tribunal and Commercial Court have given the detailed reasons for rejecting the claim of the appellant. The impugned award is not bereft of reasons and does not suffer from patent illegality and the appellant has not made out the grounds under Section 34 of the Act and as such, the Commercial Court has rightly dismissed the petition filed by the appellant. It is further contended that, the appeal is filed after limitation period, the reasons assigned in I.A are not proper, the same cannot be considered, in view of ***Government of Maharashtra (Water Resources Department) Represented By Executive Engineer v. Borse Brothers Engineers and Contractors Private Limited*** reported in ***(2021) 6 SCC 460***, thus, prayed to dismiss the appeal.

6. We have heard the arguments of learned Additional Advocate General appearing for the appellant and the learned counsel appearing for respondent No.1 and perused the material available on record. We have given our anxious



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consideration to the submissions advanced from the judgments relied on and the materials placed on record.

7. The point that arises for our consideration in this appeal is whether the appellant has shown the sufficient cause to condone the delay of 158 days in filing the appeal?

8. The answer to the above point is in the "Negative" for the following reasons:-

9. Before considering the cause shown by the appellant seeking for condonation of delay of 158 days, it would be useful to refer to the decisions of Hon'ble Supreme Court on the subject.

(i) In the case of ***Sheo Raj Singh (Deceased) through Legal Representatives and Others v. Union of India and Another*** reported in ***(2023) 10 SCC 531*** at paragraphs No.30, 31, 32, 39 and 40 has observed as under:-

"30. *Considering the aforementioned decisions, there cannot be any quarrel that this Court has stepped in to ensure that substantive rights of private parties and the State are not defeated at the threshold simply due to technical considerations of delay. However, these decisions notwithstanding, we reiterate that condonation of delay being a discretionary power available to courts, exercise of discretion must necessarily depend upon the sufficiency of the cause shown and the degree of*



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acceptability of the explanation, the length of delay being immaterial.

31. *Sometimes, due to want of sufficient cause being shown or an acceptable explanation being proffered, delay of the shortest range may not be condoned whereas, in certain other cases, delay of long periods can be condoned if the explanation is satisfactory and acceptable. Of course, the courts must distinguish between an "explanation" and an "excuse". An "explanation" is designed to give someone all of the facts and lay out the cause for something. It helps clarify the circumstances of a particular event and allows the person to point out that something that has happened is not his fault, if it is really not his fault. Care must, however, be taken to distinguish an "explanation" from an "excuse". Although people tend to see "explanation" and "excuse" as the same thing and struggle to find out the difference between the two, there is a distinction which, though fine, is real.*

32. *An "excuse" is often offered by a person to deny responsibility and consequences when under attack. It is sort of a defensive action. Calling something as just an "excuse" would imply that the explanation proffered is believed not to be true. Thus said, there is no formula that caters to all situations and, therefore, each case for condonation of delay based on existence or absence of sufficient cause has to be decided on its own facts. At this stage, we cannot but lament that it is only excuses, and not explanations, that are more often accepted for condonation of long delays to safeguard public interest from those hidden forces whose sole agenda is to ensure that a meritorious claim does not reach the higher courts for adjudication.*

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39. *According to Mr Sharma, University of Delhi is a decision by a larger Bench and, therefore, binding on us. This Court, while deciding University of Delhi, was seized of a situation where even if the delay were to be condoned, it would cause grave prejudice to the respondent Delhi Metro Rail Corporation at the instance*



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of the casual approach of the appellant University. This Court, on the argument of non-availability of the Vice Chancellor for granting approval to file the appeal, and other reasons put forth in the matter, could not conclude that there was fulfilment of sufficient cause for condonation of delay; hence, the refusal to condone the delay. The decision really turns on the facts before this Court because of the prejudice factor involved.

40. *We can also profitably refer to Koting Lamkang, cited by Mr Sen, where the same Bench of three Hon'ble Judges of this Court which decided University of Delhi was of the view that the impersonal nature of the State's functioning should be given due regard, while ensuring that individual defaults are not nit-picked at the cost of collective interest. The relevant paragraphs read as follows:*

"7. But while concluding as above, it was necessary for the Court to also be conscious of the bureaucratic delay and the slow pace in reaching a government decision and the routine way of deciding whether the State should prefer an appeal against a judgment adverse to it. Even while observing that the law of limitation would harshly affect the party, the Court felt that the delay in the appeal filed by the State, should not be condoned.

8. Regard should be had in similar such circumstances to the impersonal nature of the Government's functioning where individual officers may fail to act responsibly. This in turn, would result in injustice to the institutional interest of the State. If the appeal filed by the State are lost for individual default, those who are at fault, will not usually be individually affected."

(emphasis supplied)"

(ii) In the case of ***Jharkhand Urja Utpadan Nigam Ltd. and Anr v. M/s Bharat Heavy Electricals Limited***



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reported in **2025 SCC OnLine SC 910** at paragraphs No.20 and 21, the Hon'ble Supreme Court has held as under:-

"20. The High Court, thereafter, proceeded to answer the aforesaid question as under:

"19. In order to answer this question, we cannot lose sight of the whole purpose of enactment of the Commercial Courts Act, 2015 i.e., to provide for speedy disposal of high value commercial dispute.

20. No doubt there was a similar provision in Haryana Consumer Protection Rules, 1988 framed under the Consumer Protection Act, 1986 which was considered by the Supreme Court in the case of Housing Board, Haryana:(AIR 1996 SC 92) (1 supra).

The said provision in the Haryana Consumer Protection Rules, 1988 also provided for communication of the order of the District forum to the parties free of charge in order to avoid the delay as well as to save the parties from the burden of expenses that may be incurred for obtaining the certified copy.

The Supreme Court held that the scheme of the Consumer Protection Act was to provide for better protection of the interest of the consumers as a measure for economical and speedy remedy for the settlement of the dispute and the matters connected therewith and therefore, the said rule should be understood in a manner so that it would protect the interest of the parties before the District forum by making it obligatory on the District forum to provide a copy of the order duly signed and dated by the members of the Bench; and the period of limitation prescribed with regard to filing of an appeal under Section 15 of the said Act therefore, has to be computed as commencing from the date of communication of the order in the manner laid down in the rules.



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It was in that context that it was Held that mere pronouncement of an order in the open Conn would not be enough, but under the scheme of the rules copy of the said judgment has to be communicated to the parties affected by the said order so that the parties adversely affected therefrom may have a fair and reasonable opportunity of knowing the text, reasons and contents thereof so as to formulate grounds of attack before the appellate or before the higher forums. In absence of such communication of signed and dated order, it was held that the parties adversely affected by it will have no means of knowing the contents of the order so to challenge the same and get it set aside by the appellate authority or by the higher forums.

21. Normally petitioners before the District forums under the Consumer Protection Act, 1986 are individuals and not corporate entities like the appellant/instrumentality of the State. So, there is justification for taking the view as regards petitioners in District forums that the provisions in the Haryana Consumer Protection Rules, 1988 which mandated communication of the order of the said forums to the parties free of charge was to save the parties from the burden of expenses that may be incurred for obtaining the certified copy."

22. We are afraid that the logic behind the provision contained in Haryana Consumer Protection Rules, 1988 framed under the Consumer Protection Act. 1986 cannot be applied to the litigants before the Commercial Court. For Commercial entities and in particular litigants like the applicants herein who are the State Government Undertakings, the expenses of obtaining a certified copy of a judgment of the Commercial Court would be very small compared to the stakes involves in the litigation.

23. Therefore, they cannot be put on the same footing as a petitioner before the District Consumer forum; and the logic of counting the period of



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limitation from the date of communication of the order of consumer forum, cannot be applied to a Commercial dispute to which Commercial entities are parties.

24. In our opinion. Order XX Rule 1 CPC as amended and made applicable to the Commercial Courts is to be treated as only directory and not mandatory. So notwithstanding the provision contained in the amended Order XX Rule 1 CPC (mandating issuance of copies to the parties to the dispute through electronic mail or otherwise), if such copies are not issued within a reasonable time, the parties to the dispute have to apply for the same, and after obtaining it, prefer an appeal within the time prescribed in Section 13(1-A) of the Commercial Courts Act, 2015.

25. This is because the speedy resolution of high value commercial dispute cannot be lost sight of. Such an interpretation would be in tune with the scheme and object of the Commercial Courts Act, 2015 and any interpretation of the nature advanced by the counsel for the applicants would defeat the whole purpose of the object of the Commercial Courts Act, 2015 to provide for speedy disposal of high value commercial disputes.

26. Therefore, we reject the contention of the counsel for the applicants that the period of limitation for filing the appeal to the Commercial Appellate Division of the High Court would not commence unless the judgment of the Commercial Court in the Commercial suit was communicated by the said Commercial Court to the parties.

27. We shall next consider whether the delay of 301 days in filing this Commercial Appeal can be condoned in exercise of power conferred on this Court under Section 5 of the Limitation Act, 1963.

28. The extent of applicability of Section 5 of the Limitation Act, 1963 to cases falling under the Commercial Courts Act, 2015 fell for consideration of



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the Supreme Court in Government of Maharashtra: (AIROnline 2021 SC 152)(2 supra).

29. The Supreme Court in Para 19 of it's judgment in Government of Maharashtra (AIROnline 2021 SC 152)(2 supra) discussed the statement of objects and reasons behind enacting of the Commercial Courts Act, 2015 and held that period of limitation must always to some extent be arbitrary and may result in some hardship, but this is no reason as to why they should not be strictly followed. In para 32, it held that the condonation of delay under Section 5 of the Limitation Act, 1963 has to be seen in the context of the object of speedy resolution of the dispute.

In para 58, the Supreme Court held that given the object sought to be achieved under the Commercial Courts Act, 2015 i.e., the speedy resolution of the disputes, expression "sufficient cause" in Section 5 of the Limitation Act, 1963 is not elastic enough to cover long delays beyond the period provided by the appeal provision itself; and that the expression "sufficient cause" is not itself a loose panacea for the ill of pressing negligent and stale claims.

In other words, the Supreme Court indicated that in exercise of power under Section 5 of the Limitation Act, 1963 a delay beyond the period of 60 days from the date on which the appeal could have been filed can be condoned (i.e., below 120 days from the date of pronouncement of the judgment) by invoking Section 5 of the Limitation Act, 1963, but where there is negligence, inaction or lack of bona fides, such power ought not to be exercised.

It went further in para 59 by observing that merely because the Government is involved, a different yardstick for condonation of delay cannot be laid down. (This rule would thus apply equally to instrumentalities of Government like the applicants herein).



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It held in para 62 that merely because sufficient cause has been made out in the facts of a given case, there is no right in the applicants or the appellants to have the delay condoned.

It concluded in para 63 as under:

"63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration An and the Commercial Courts Act, for appeals pled under section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13 (I-A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days. respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches." (emphasis supplied)

30. Thus, the Supreme Court in Government of Maharashtra: (AIROnline 2021 SC 152)11 (2 supra) permitted condonation of delay beyond 60 days in a case falling under the Commercial Courts Act only by way of exception and not by way of rule. If the applicants for condonation of delay had not acted bona fide and had acted in a negligent manner as in the instant case, the delay is not liable to be condoned.

31. In the instant case, the delay in filing the appeal is 301 days - way beyond 60 days + 60 days = 120 days permitted by the judgment of the Supreme Court to be condoned in exercise of power under Section 5 of the Limitation Act, 1963. Therefore, such inordinate delay caused by



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negligence of the applicants is not liable to be condoned.

32. We may also point out that the applicants were represented before the Commercial Court, Ranchi by counsel and the judgment was obviously pronounced in the presence of the counsel. Though the order was pronounced on 09.10.2023 it appears that the application for issuance of certified copy was made on 30.08.2024, it was made ready on 07.09.2024, and the appeal was filed on 04.10.2024. If the Commercial Court had not communicated the copy of its judgment to the applicants within the reasonable time, it was incumbent on the part of the counsel for the applicants or the employees in the Legal Department of the applicants to apply for issuance of certified copy from the Commercial Court, but they have failed in their duty to apply for it when they did not receive it within a reasonable time. Their negligence resulted in the inordinate delay of 301 days in filing this appeal.

33. The applicants cannot blame the respondent for not communicating to them about the disposal of the appeal and for not making any demand of payment in terms of the decree of the Commercial Court.

34. They also cannot take advantage of the negligence of the counsel engaged by them in not informing the applicants about the judgment of the Commercial Court. This is because the applicants have a Legal Department and employees engaged by the applicants in that department have a duty to monitor what is happening in the cases to which the applicants are parties, keep track of the progress of the said cases and the decisions therein, and ensure that applications for issuance of certified copy are made to the concerned court so that the appeals, if required, can be preferred within the period of limitation prescribed by law."



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21. We are in complete agreement with the line of reasoning assigned by the High Court."

(iii) In the case of **Government of Maharashtra (Water Resources Department) Represented By Executive Engineer v. Borse Brothers Engineers and Contractors Private Limited** reported in **(2021) 6 SCC 460**, the Hon'ble Supreme Court at paragraphs No.58 to 63 has held as under:-

"58. Given the object sought to be achieved under both the Arbitration Act and the Commercial Courts Act, that is, the speedy resolution of disputes, the expression "sufficient cause" is not elastic enough to cover long delays beyond the period provided by the appeal provision itself. Besides, the expression "sufficient cause" is not itself a loose panacea for the ill of pressing negligent and stale claims. This Court, in Basawaraj v. LAO has held: (SCC pp. 85-88, paras 9-15)

"9. Sufficient cause is the cause for which the defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the viewpoint of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained



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inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the court concerned to exercise discretion for the reason that whenever the court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See Manindra Land & Building Corpn. v. Bhutnath Banerjee, Mata Din v. A. Narayanan, Parimal v. Veena and Maniben Devraj Shah v. Municipal Corpn. of Brihan Mumbai.)

10. In Arjun Singh v. Mohindra Kumar this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".

11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide Madanlal v. Shyamlal and Ram Nath Sao v. Gobardhan Sao.)

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with



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*all its rigour when the statute so prescribes. The court has no power to extend the period of limitation on equitable grounds. 'A result flowing from a statutory provision is never an evil. A court has no power to ignore that provision to relieve what it considers a distress resulting from its operation.' The statutory provision may cause hardship or inconvenience to a particular party but the court has no choice but to enforce it giving full effect to the same. The legal maxim *dura lex sed lex* which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.*

13. The statute of limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 28, Para 605 p. 266:

'605. Policy of the Limitation Acts.—The courts have expressed at least three differing reasons supporting the existence of statutes of limitation, namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a defendant might have lost the evidence to disprove a stale claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence.'

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what



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may have been lost by a party's own inaction, negligence or laches. (See Popat & Kotecha Property v. SBI Staff Assn., Rajender Singh v. Santa Singh and Pundlik Jalam Patil v. Jalgaon Medium Project.)

14. In P. Ramachandra Rao v. State of Karnataka this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in Abdul Rehman Antulay v. R.S. Nayak.

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bona fide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature."

(emphasis supplied)

59. *Likewise, merely because the Government is involved, a different yardstick for condonation of delay cannot be laid down. This was felicitously stated in Postmaster General v. Living Media (India) Ltd.*



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["Postmaster General"], as follows: (SCC pp. 573-74, paras 27-29)

"27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform



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their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

60. *The decision in Postmaster General has been followed in the following subsequent judgments of this Court:*

- (i) State of Rajasthan v. Bal Kishan Mathur at paras 8-8.2;*
- (ii) State of U.P. v. Amar Nath Yadav at paras 2-3;*
- (iii) State of T.N. v. N. Suresh Rajan at paras 11-13; and*
- (iv) State of M.P. v. Bherulal at paras 3-4.*

61. *In a recent judgment, namely, State of M.P. v. Chaitram Maywade, this Court referred to Postmaster General, and held as follows: (SCC pp. 668-69, paras 1-5)*

"1. The State of Madhya Pradesh continues to do the same thing again and again and the conduct seems to be incorrigible. The special leave petition has been filed after a delay of 588 days. We had an occasion to deal with such inordinately delayed filing of the appeal by the State of Madhya Pradesh in State of M.P. v. Bherulal in terms of our order dated 15-10-2020.

2. We have penned down a detailed order in that case and we see no purpose in repeating the same reasoning again except to record what are stated to be the facts on which the delay is sought to be condoned. On 5-1-2019, it is stated that the Government Advocate was approached in respect of the judgment delivered on 13-11-2018 and the Law Department permitted filing of the SLP against the impugned order on 26-5-2020. Thus, the Law Department took almost about 17 months' time to decide whether the SLP



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had to be filed or not. What greater certificate of incompetence would there be for the Legal Department!

3. We consider it appropriate to direct the Chief Secretary of the State of Madhya Pradesh to look into the aspect of revamping the Legal Department as it appears that the Department is unable to file appeals within any reasonable period of time much less within limitation. These kinds of excuses, as already recorded in the aforesaid order, are no more admissible in view of the judgment in Postmaster General v. Living Media (India) Ltd.

4. We have also expressed our concern that these kinds of the cases are only "certificate cases" to obtain a certificate of dismissal from the Supreme Court to put a quietus to the issue. The object is to save the skin of officers who may be in default. We have also recorded the irony of the situation where no action is taken against the officers who sit on these files and do nothing.

5. Looking to the period of delay and the casual manner in which the application has been worded, the wastage of judicial time involved, we impose costs on the petitioner State of Rs.35,000 to be deposited with the Mediation and Conciliation Project Committee. The amount be deposited within four weeks. The amount be recovered from the officer(s) responsible for the delay in filing and sitting on the files and certificate of recovery of the said amount be also filed in this Court within the said period of time. We have put to Deputy Advocate General to caution that for any successive matters of this kind the costs will keep on going up."

62. *Also, it must be remembered that merely because sufficient cause has been made out in the facts*



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of a given case, there is no right in the appellant to have delay condoned. This was felicitously put in Ramlal v. Rewa Coalfields Ltd. as follows: (SCR p. 771 : AIR p. 365, para 12)

"12. It is, however, necessary to emphasise that even after sufficient cause has been shown a party is not entitled to the condonation of delay in question as a matter of right. The proof of a sufficient cause is a condition precedent for the exercise of the discretionary jurisdiction vested in the court by Section 5. If sufficient cause is not proved nothing further has to be done; the application for condoning delay has to be dismissed on that ground alone. If sufficient cause is shown then the Court has to enquire whether in its discretion it should condone the delay. This aspect of the matter naturally introduces the consideration of all relevant facts and it is at this stage that diligence of the party or its bona fides may fall for consideration; but the scope of the enquiry while exercising the discretionary power after sufficient cause is shown would naturally be limited only to such facts as the Court may regard as relevant. It cannot justify an enquiry as to why the party was sitting idle during all the time available to it. In this connection we may point out that considerations of bona fides or due diligence are always material and relevant when the Court is dealing with applications made under Section 14 of the Limitation Act. In dealing with such applications the Court is called upon to consider the effect of the combined provisions of Sections 5 and 14. Therefore, in our opinion, considerations which have been expressly made material and relevant by the provisions of Section 14 cannot to the same extent and in the same manner be invoked in dealing with applications which fall to be decided only under Section 5 without reference to Section 14."



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63. *Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under Section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches."*

10. The Hon'ble Supreme Court, considering the object of the Act has held that the object of the Act is speedy resolution of disputes, the expression "sufficient cause" in Section 5 of the Limitation Act is not elastic enough to cover long delays beyond the period provided by the appeal provision itself and that the expression "sufficient cause" is not itself a loose panacea for the ill of pressing negligent and stale claims. In commercial matters, the condonation of delay should not be done in a routine manner and it should be an exception of showing sufficient cause for the delay. In a fit case in which a party has otherwise acted *bona fide* and not in a negligent manner, a short delay beyond such period can, in the discretion of the Court, be condoned, always bearing in mind that the



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other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches.

11. Keeping in mind the enhancement of the law laid down by the Hon'ble Supreme Court, it is clear that scope for condoning the delay under the Act is very limited. In the instant case, an affidavit filed along with the application for condonation of delay clearly mentions that the certified copy of the impugned judgment was made ready on 22.02.2024, was delivered on 22.02.2024 and it is also noticed that the current appeal is filed on 03.04.2024.

12. The affidavit indicates that on receipt of the certified copy of the impugned order, the same was sent for legal opinion and also obtained the necessary administrative approvals. The said statement in the affidavit is a casual statement and without any supporting material. The affidavit is not forthcoming as to what necessary approvals were required to be obtained before filing the appeal or any other aspect to explain the delay caused in filing the appeal. The appellant has



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also filed an additional affidavit to explain the delay in filing the appeal.

13. A perusal of the said better affidavit claims to present the order of the sequence of the movement of file with the Administration Department, as to why the delay was caused. However, the said affidavit omits as to what were the specific details of the opinion of the counsel and the specific dates of the approvals of the concerned Officers within the Department.

14. Furthermore, there is no material on record with regard to the movement of files to the Officers till the decision is taken in the appeal. In the absence of any such material particulars, the main assertion that the opinion was sought and the Competent Authority took the decision to file the appeal cannot be taken as "sufficient cause" to condone the delay in filing the commercial appeal. The Hon'ble Supreme Court in the aforesaid decisions has held that the delay cannot be condoned in a routine manner, in disputes arising under the Act, as the object of the Act is the speedy resolution of commercial disputes.



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15. The appellant cannot blame the respondent for not communicating to them about the disposal of the appeal and for not making any demand of payment in terms of the decree of the Commercial Court. They also cannot take advantage of the negligence of the counsel engaged by them in not informing the appellant about the judgment of the Commercial Court. This is because of the appellant has a legal department and the employees engaged by the appellant, if that department have due to monitor what is happening in the cases in which the appellant are parties, keep track of the progress of the said cases and the decisions therein and ensure that the application for assurance of certified copy are to be made to the concerned Court so that the appeals, if required can be prepared within the period of limitation prescribed by law.

16. Therefore, on considering the cause shown by the appellant in the affidavit filed along with the application, the same does not show any sufficient cause to condone the delay of 158 days in filing the appeal. Hence, we are of the considered view that the application in IA No.1/2024 filed seeking for condonation of delay is devoid of merits and is



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accordingly, ***rejected***. Consequently, the appeal also stands ***dismissed***.

All pending interlocutory applications shall stand disposed of.

**Sd/-
(ANU SIVARAMAN)
JUDGE**

**Sd/-
(VENKATESH NAIK T)
JUDGE**

RAK
List No.: 1 Sl No.: 7