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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6305 OF 2014

M/s. Punjab State Container &
Warehousing Corporation Ltd.

..Petitioner

-Versus-

Government of Maharashtra & ors.

..Respondents

.....

Mr. R. Sathyanarayanan Iyer for the Petitioner.

Mr. V. S.Gokhale, AGP, for the Respondent Nos.1 to 3.

.....

**CORAM: A. S. OKA AND
A. P. BHANGALE,JJ.**

DATE :- 19th MARCH, 2015.

PC.:

Heard the learned counsel appearing for the Petitioner and learned AGP for 1st to 3rd Respondents. Considering the narrow controversy involved, the Petition is forthwith taken up for final disposal.

2] Being aggrieved by the demand made by 4th Respondent, the Petitioner preferred an Appeal before the State Government under sub-section (1) of section 124G of the Maharashtra Regional and Town Planning Act, 1966 (for short MRTP Act). The said Appeal has been dismissed on two grounds. The first ground is the bar of limitation and the second ground is failure of the Petitioner to deposit requisite amount as contemplated by clause (b) of section 124H of the MRTP Act.

3] The learned counsel appearing for the Petitioner, on instructions,

states that without prejudice to its rights and contentions, the Petitioner will deposit the requisite amount as provided in clause (b) of section 124H within reasonable time fixed by this Court. He states that though in the Memorandum of Appeal itself there is some explanation for the delay, the Petitioner will file a separate application for condonation of delay.

4] We have heard the learned AGP appearing for the Respondent Nos.1 to 3.

5] By communication dated 21st September, 2013, the Petitioner has been informed that the Appeal cannot be entertained as the same is barred by limitation. Before issuing the communication, a reasonable opportunity ought to have been granted to the Petitioner to file an application for condonation of delay. The second ground in this communication is taken care of by the aforesaid statement of the learned counsel appearing for the Petitioner regarding the deposit of the requisite amount.

6] Hence, we dispose of the Petition by passing the following order:-

(a) We set aside the impugned communication dated 21st September, 2013 and restore the Appeal preferred by the Petitioner to the file of the Appellate Authority;

- (b) It will be open for the Petitioner to file a separate application for condonation of delay within a period of one month from today;
- (c) If such application is made, the same shall be decided in accordance with law in the light of proviso to clause (a) of section 124H of the MRTP Act which confers power on the State Government to condone the delay;
- (d) We grant time of eight weeks to the Petitioner to deposit the requisite amount in accordance with clause (b) of section 124H of the MRTP Act.
- (e) We make it clear that on the failure of the Petitioner to deposit the requisite amount in terms of clause (b) of section 124H of the MRTP Act within the stipulated time of eight weeks, the Appeal shall stand dismissed for non-prosecution even if delay is condoned;
- (f) Application for condonation of delay, if made by the Petitioner, shall be decided as expeditiously as possible;
- (g) If delay is condoned and the Appeal is admitted, even the Appeal shall be decided expeditiously as possible. On failure of the Petitioner to make an application for condonation of delay within a period of one month from today, the Appeal shall stand dismissed;
- (h) The Petition is disposed of on above terms.
- (i) All contentions on merits are kept open.

(A. P. BHANGALE,J.)

(A. S. OKA, J.)