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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO(OS) 58/2016**

**M/S SUKUMAR CHAND JAIN** ..... Appellant  
Through: Mr Sandeep Sharma and Ms Risha Mittal

versus

**DELHI STATE INDUSTRIAL & INFRASTRUCTURE  
DEVELOPMENT CORPORATION LTD** ..... Respondent  
Through: Mr Arun K. Shaw and Mr Amiet Andlay

**CORAM:**

**HON'BLE MR. JUSTICE BADAR DURREZ AHMED**

**HON'BLE MR. JUSTICE SANJEEV SACHDEVA**

**ORDER**

% **01.03.2016**

**CM No. 6665/2016**

The exemption is allowed subject to all just exceptions.

**CAV 163/2016**

The learned counsel for the respondent / caveator is present.

The caveat stands discharged.

**CM Nos. 6663/2016 and 6664/2016**

The applications have been filed for condonation of delay of 27 days in filing the appeal and 165 days delay in re-filing. The so called reason given for the delay which occurred in filing the appeal is set out hereunder:-

“That there has been a delay of 27 days in filing the accompanying Appeal and the same being inadvertent and bona fide is due to the fact that the Appellant being a company, certain documents were required and certain discussions and meetings were held with regard to the dispute and hence, there has been an inadvertent bona fide delay as the same

could not be held in June, 2015 which are court vacations. That further, the certified copy of the impugned order was received on 30.06.2015. It is submitted that in case the delay is not condoned, the same will cause undue hardship to the Appellant.”

The purported reason for delay in re-filing is given as under:-

“That it is submitted that there has been a delay of 165 days in refiling the accompanying Appeal as the same was filed on 28.07.2015 vide Diary No. 368397 of 2015. With regard to the delay in refiling it is submitted that after the appeal was filed, there was some confusion regarding the date of return of the same as the clerk was under the impression that the same had been collected by the associate dealing with the said matter. Thereafter, it was time and again inquired, however the associate dealing with the matter was not aware. Subsequent to this, the same was discussed with the concerned officials of the Appellant company, however, the same was not to their knowledge also as the associate dealing with the matter had informed that the same was given to the concerned officials along with other papers pertaining to other matters of the Appellant company. In fact, the said associate had visited the office of the Appellant company to inspect the same, however, the filed documents could not have been found there as well. It is pertinent to mention that it was necessary to obtain the filed copy as the certified copy of the impugned order was in the said file and the same would have had to be reapplied which would have caused further delay in filing the petition. However, on numerous attempts and despite best efforts, the file was not located. Thereafter, in December, 2015 after the associate left the office, during the court vacations the disposed of files of the matters of the said associate were sorted and the appeal was found to be tagged with one of the disposed off matters. It is submitted that the documents of the appeal were not in place and the record had to be reconstructed

and hence, there has been a substantial delay in refiling the appeal. It is submitted that in case the delay is not condoned, the same will cause undue hardship to the Appellant.”

It is evident on going through the purported reasons for delay that the same are, first of all, extremely vague and secondly, in our view, not tenable. The explanation sought to be offered does not amount to providing sufficient cause for the delay in filing as well as in re-filing appeal. Therefore, these applications are dismissed.

The appeal accompanying the same is also dismissed on the ground of delay.

**BADAR DURREZ AHMED, J**

**SANJEEV SACHDEVA, J**

**MARCH 01, 2016**  
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