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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CIVIL APPLICATION NO.4704 OF 2016
IN
ARBITRATION APPEAL (ST.) NO.9538 OF 2016**

The Executive Engineer,
Under G.M.I.D.C., Aurangabad
Through Executive Engineer,
Majalgaon Canal Division No.7,
Gangakhed, Dist. Parbhani

..APPLICANT
(Ori. Respondent/Department)

VERSUS

M/s Chowgule Real Estate and
Construction Company Pvt. Ltd.,
Casa del sol,
Opp. Hotel Goa marriot,
Miramar, Panji, Goa-403301,
Through its Director

..RESPONDENT
(Ori. Claimant/Contractor)

Mr B.R. Surwase , Advocate for applicant;
Mr G.K. Thigale, Advocate for respondent

CORAM : NITIN W. SAMBRE, J.

DATE : 30th October, 2017

ORAL ORDER:

By the present application, the applicant seeks condonation of delay caused in filing arbitration appeal against the judgment and award dated 11th March, 2015, rendered by Principal District Judge, Beed, in Misc. Civil Application No.561 of 2013.

2. Perused the averments made in the application and grounds carved out in support of prayer for condonation of delay.

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3. Mr Thigale, learned Counsel appearing on behalf of respondent strenuously opposed the claim on the ground that a conscious decision was taken by the appellant not to file appeal in the matter and there is no material on record, which prompted the appellant to file appeal subsequent thereto. He would then urge that delay is not properly explained, as is apparent from the reasons cited in the application and, therefore, prayed for rejection of the application.

4. Considered rival submissions.

5. The fact remains that the appellant, a statutory corporation had initially decided not to file appeal, however, in the meeting of the executive committee of the corporation presided over by the Chairman viz. Principal Secretary, Water Resource Department, Mantralaya, a conscious decision was taken to file appeal, as is apparent from the averments made in paragraph 2 of the application. Apart from above, the fact remains that after the appeal period, the present respondent has given proposal for settlement, which was under consideration of the authority for some time.

6. Considering the aforesaid factual matrix, in my opinion, sufficient cause is made out for condoning delay of 284 days. As such, application stands allowed in terms of prayer clause (B), subject to payment of costs of Rs.5,000/- to be paid by the applicant to the respondent, within a period of

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four weeks from today. The amount of costs be paid to Mr Thigale, learned Counsel appearing on behalf of the respondent.

(NITIN W. SAMBRE, J.)

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