

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

930 CIVIL APPLICATION NO. 11237 OF 2014
IN FAST/29452/2014

SHRI GANESH SAHAKARI SAKHAR KARKHANA LTD. GANESHNAGAR
VERSUS
ARYAMAN BULK CARRIER AHMEDNAGAR THR AVINASH SHARAD JAGTAP AND
ANOTHER

...

Advocate for Applicant : Mr. Rahul A. Tambe
Advocate for respondents : Mr. Sudhar R. Zambre, Adv. h/f. Mr. N.B. Narwade

CORAM : K.K. SONAWANE, J.

DATE : 29th September, 2017.

PER COURT:

Heard learned counsel for the applicant and learned counsel for the respondents. Perused the application. There was Special Civil Suit No. 77 of 2011 filed against the respondent for recovery of damages. The learned trial court dismissed the suit against which the applicant has filed the appeal to redress its grievances. But, there is delay of 193 days for filing the appeal. Learned Counsel for applicant/s submits that due to financial crisis the applicant sugar factory could not file the appeal within stipulated period. He submits that delay is not deliberate and intentional but caused owing to unavoidable circumstances. As such, he prayed to condone the delay.

3] Learned counsel for the respondent raised objection and submits that delay has not been properly explained and it would be unjust and improper to condone the delay.

4] I have heard the submission canvassed on behalf of both sides

and perused the application as well as the impugned judgment and order against which the applicant sugar factory is intending to file an appeal. Admittedly, the applicant sugar factory filed a suit for damages of Rs. 15 Lakhs against the respondents, but the learned trial court turned down the claim of the applicant. Being dissatisfied with the findings of the learned trial court, the applicant filed present appeal. There is a delay of 193 days.

6] I am of the considered opinion that reasonable opportunity needs to be given to the applicant sugar factory to ventilate its grievances in the appellate forum. It is to be noted that the matter pertains to the suit for recovery of damages. It is a settled rule of law that while dealing with the application for condonation of delay it is imperative to extend latitude in favour of applicant being sugar factory, by adopting liberal and pragmatic approach. If the appeal/s of the appellant sugar factory is not allowed it would cause injustice and prejudice to the appellant/applicant. Therefore, I do not find any impediment to allow the applicant/ sugar factory to present an appeal by condoning the delay. It would sub-serve the purpose in the interest of justice. Hence, application for condonation of delay deserves to be allowed. In sequel, the application stands allowed in terms of prayer clause (B). Delay caused in filing appeal against the impugned judgment and award is hereby condoned. Registry to take requisite steps for registration of appeal and list the matter for further process in due course.

[K.K. SONAWANE]
JUDGE.

grt/-