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

+ **FAO(OS) 42/2017**

M/S DEDICATED FREIGHT CORRIDOR CORP LTD Appellant

Through: Mr S.K. Taneja, Sr. Adv. with Mr Jitendra
Kumar Singh, Adv.

versus

M/S SOMA ENTERPRISE LTD Respondent

Through: Mr Dharmendra Rautray, Adv. with Mr
Sushant Kumar, Ms Ankit Khushu, Ms Tara Shahani,
Advs.

CORAM:

HON'BLE MR. JUSTICE BADAR DURREZ AHMED

HON'BLE MR. JUSTICE ASHUTOSH KUMAR

ORDER

% **22.02.2017**

CM 6284/2017

Allowed subject to all just exceptions.

CM 6283/2017

This is an application seeking condonation of 10 days delay in re-filing the present appeal.

The delay is condoned.

FAO(OS) 42/2017 & CM 6281/2017, 6282/2017

This appeal has been filed against the order dated 25.07.2016 passed by a learned Single Judge of this court in OMP 300/2016 which actually was a Section 34 petition in respect of the award dated 04.01.2015. The present appeal is delayed by 102 days in filing and a further 10 days in re-filing. The condonation of delay application that has been filed, being CM 6282/2017, in respect of 102 days' delay is quite vague. This would be evident from paragraphs 2, 3 and 4 of the said application which are re-produced herein below:-

“2. That the certified copy of impugned order dated 25.07.2016 was applied on 25th July 2016. The said certified copy was delivered on 30.08.2016. The certified copy of the

impugned order was handover to the department on 02nd September, 2016. The certified copy of the along with concerned file was processed in the department for further necessary action to be taken in this regard. After due noting and inputs, the said file was put before the competent authority. Since the amount in disputes is very high and hence the file went upto the final authority at the headquarter at Delhi. After due deliberation and consideration, the department finally decided to challenge the impugned order dated 25.07.2016 before the Hon'ble Division Bench of this High Court.

3. That after taking a final decision to challenge the impugned order dated 25.07.2016, the department on 06.12.2016 nominated Mr. J K Singh counsel to file an appeal before the Hon'ble Division Bench of this High Court and consent of counsel was sought through mail. The counsel gave his consent for filing the said appeal.

4. That, as per the instructions of the department said counsel prepared the draft and sent to the department on 13.12.2016. The department vetted the appeal and gave the signed paper of the appeal on 21/12/2016 to the office of counsel. Thereafter the appeal has been prepared for filing and same is being filed on 22/12/2016. In the process, delay has occurred in filling the present appeal.”

Bureaucratic delays and red-tapism in the government departments and public sector undertakings cannot be a ground for condoning the delay in commercial matters. This is so particularly because specific time lines have been given in the Arbitration and Conciliation Act, 1996 and the whole idea is for the disputes to be arbitrated upon and decided as early as possible. It is hightime that the government and its various departments and instrumentalities realise that when they enter into the arena of commerce, they should function in the same way in which private parties operate. Since the delay, according to us, has not been adequately explained nor has any sufficient cause been shown for condoning the same, we reject this application and consequently the appeal.

However, before parting with this matter, we may point out that the learned counsel appearing for the respondents has been fair to concede that the claim in respect of Bridge No. 417 has been awarded to them by an excess amount of Rs. 30 lakh. The said Bridge falls under overall claim No.2. The learned counsel for the respondents states that they would not be claiming the amount of Rs. 30 lakh which has been awarded in respect of the Bridge No. 417 and, therefore, the overall awarded amount, to that extent would stand reduced.

BADAR DURREZ AHMED, J

ASHUTOSH KUMAR, J

FEBRUARY 22, 2017

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