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

+ LPA 174/2017

UNION OF INDIA

..... Appellant

Through: Mr. Ruchir Mishra & Mr. Mukesh
Kumar Tiwari, Advs.

Versus

J NEHRU

..... Respondent

Through: None.

CORAM:

HON'BLE THE CHIEF JUSTICE

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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17.03.2017

CM. Nos. 10266/2017, 10267/2017 and 10268/2017 (for exemptions)

Exemptions allowed subject to all just exceptions.

Applications stand disposed of.

CM. No. 10273/2017 (delay in refiling the Appeal)

For the reasons stated in the application, 42 days delay in re-filing the Appeal is condoned.

Application stands disposed of.

CM. No. 10269/2017 (delay in filing the Appeal)

1. This is an application filed under Section 5 of the Limitation Act, 1963 read with Section 151 CPC seeking condonation of 1236 days delay in filing the Appeal against the order dated July 2, 2013 passed by the learned Single Judge in Writ Petition (C) No. 3883/2011 whereby the learned Single

Judge has allowed the Writ Petition in favour of the respondent herein.

2. The averments made in the application only refers to the consideration of the impugned judgment by different authorities; taking of legal advice from the department of legal affairs and processing of the matter to enable the department to file the instant appeal.

3. Suffice to state, the said reasoning reflects the action which is administrative in nature and the same cannot be a reason to condone the delay which is of more than three years.

4. The law on condonation of delay is quite settled. The Supreme Court in the case of *Union of India & Ors. v. Tata Yodogawa Ltd. & Anr. SLP (Civil) Nos. 3772-73 of 1987* decided on 21st September, 1988 while considering the appeal filed by Union of India (as in this case also) wherein on 4th November, 1986 and 27th February, 1987, the dates on which the certified copy of the judgment of the High Court was received and on which the SLP was filed, the Supreme Court held that there is no whisper to explain the delay. In the Rejoinder affidavit filed by Union of India, it was also represented that such delay is always beyond the control especially in the Government matters as the file has to be routed through several sections of the department. The Supreme Court held that it is aware of the fact that the Government being impersonal takes longer time than private bodies or the individuals. Even giving that latitude, there must be some way or attempt to explain the cause of such delay. The Supreme Court from the facts narrated in the said case held, there is no 'sufficient cause' to explain the delay.

5. In the case in hand, the approval to file an appeal was received only on 22nd January, 2016 which is, after more than two years from the date of

the impugned judgment and even thereafter it is noted that the appeal was filed on 23rd December, 2016 almost 11 months from the date of the approval.

6. We do not find any justifiable reason to condone the inordinate delay of 1236 days and accordingly, CM. No. 10269/2017 is dismissed.

7. Consequently, the Appeal as well as the CM. No. 10265/2017 for stay are also dismissed.

CHIEF JUSTICE

V. KAMESWAR RAO, J

MARCH 17, 2017/jg