

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCC No. 672 of 2017**

- The Principal Commissioner Of Central Tax, Central Excise And Customs Tikrapara, Raipur District Raipur Chhattisgarh.

---- Petitioner**Versus**

- M/s Steel Authority Of India Ltd. Bhilai Steel Plant Bhilai Chhattisgarh.

---- Respondent

For Petitioner	Shri Vinay Pandey, Advocate.
For Respondent	Shri Sandeep Dubey, Advocate.

Hon'ble Shri Justice Prashant Kumar Mishra**Hon'ble Shri Justice Ram Prasanna Sharma****Order On Board****19/02/2018**

Heard learned counsel for the parties.

I.A.No.1

1. This is an application for condonation of delay of 2670 days in filing the application.
2. Shri Vinay Pandey, learned counsel for the appellant, would submit that the delay in moving the restoration application is not negligent or *mala fide*, but it has occurred *bona fide* for the reasons mentioned in the application.
3. Per contra, Shri Sandeep Dubey, learned counsel for the respondent, would vehemently oppose the application. He would submit that for each day even for each month or each year, the explanation has not been offered. To buttress his contention, he

would refer to the decision of the Supreme Court in **Postmaster General and Others v. Living Media India Limited and Another** reported in (2012) 3 SCC 563.

4. Having heard learned counsel for the parties at length and in view of the law laid down by the Supreme Court in the matter of **State of Nagaland v Lipok AO and others reported** in 2005 (183) ELT 337, wherein it has been observed that if the refusal to condone the delay results in grave miscarriage of justice, it would be a ground to condone the delay, we are satisfied that the delay in filing the application for restoration deserves to be condoned.
5. Accordingly, I.A. No.1 is allowed and the delay in filing the MCC is condoned.

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6. This is an application for restoration of CEA No. 03/2004, which was dismissed for want of prosecution vide Court order dated 16.03.2010.
7. On due consideration and for the reasons mentioned in the restoration application, it is allowed and CEA No. 03/2004 is directed to be restored to its original number.

Sd/-

Judge
Prashant Kumar Mishra

Sd/-

Judge
Ram Prasanna Sharma