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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 149 OF 2018
IN
APPEAL (L) NO. 33 OF 2018
IN
ARBITRATION PETITION NO.734 OF 2016

Union of IndiaApplicant.

In the matter between

Union of India Appellant.

V/s

M/s. EMCO Agencies Respondent.

Mr. B.B. Sharma alongwith Mr. Dushyant Kumar for the Applicant.
Ms. Madhuri Rawat i/b M/s. M/s. Auris Legal for the Respondent.

**CORAM: B. R. GAVAI &
RIYAZ I. CHAGLA, JJ.**

DATE: 13th December, 2018

P.C.:-

1] By way of present Notice of Motion, the Union of India is seeking condonation of delay in filing the appeal.

2] Heard Mr. Sharma, learned Counsel appearing on behalf of the Applicant and Ms. Rawat, learned Counsel appearing on behalf of the

Respondent.

3] Mr. Sharma, learned Counsel appearing on behalf of the Applicant submits that the delay caused in filing the appeal is on account of procedural requirement of obtaining permission from the higher authorities at Delhi.

4] We have perused the affidavit in support of the Notice of Motion, filed by one R.S. Meena, working as Garrison Engineer (Naval Works) in the Office of Commender Works Engineer (CWE), Undertaking of the Government of India

5] It is stated in the affidavit in support that the learned Single Judge has passed the order on 19th October, 2016. It is stated that certified copy was received by the Applicant on 16th November, 2016. The appeal being an intra-court appeal, in our view, it was not necessary for the Appellant to have waited to file appeal till the receipt of certified copy and the Appellant could have proceeded to take steps after obtaining the ordinary copy of the judgment. It is

stated that thereafter, the matter was sent to the higher authorities at Delhi after completion of formalities on 23rd January, 2017. It is further stated that vide communication dated 7th March, 2017, the Ministry of Law communicated its opinion to the Department concerned and the Department concerned communicated on 21st March, 2017 the decision to file an appeal to the Appellant's Branch at Mumbai. The only explanation given after the said date for delay is that thereafter the Appellant directed its Arbitration Department to complete the procedure and take steps for filing the appeal. The appeal is thereafter filed on 9th January, 2018.

5] No doubt that, the Union of India and State Government are entitled to some latitude in the matter of condonation of delay. However, law of limitation is not different for private litigants and for Union or State. The period between 21st March, 2017 and 9th January, 2018 is almost of about 10 months. Leave aside satisfactory explanation, no explanation for such an inordinate delay is given. We find that after approval by the Head Office of Law Ministry, Appellant has waited for almost 10 months to prefer the present appeal.

6] We do not find that the case is made for condonation of delay. Notice of Motion is therefore rejected. Consequently Appeal (L) No.33 of 2018 does not survive and the same is disposed of as such.

(RIYAZ I. CHAGLA J.)

(B. R. GAVAI, J.)