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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
Date of Decision: 10th January, 2018
+ **RFA 962/2016**

DELHI DEVELOPMENT AUTHORITY & ANR. Appellants
Through : Mr. Sanjeev Sagar, Advocate.

versus
M/S. BUDHIRAJA ELECTRICALS Respondent
Through : Mr. Prashant Kumar, Advocate.

CORAM:
JUSTICE PRATHIBA M. SINGH

Prathiba M. Singh, J. (Oral)

CM APPL. 45709/2016 (Condonation of Delay)

1. This is an application for condonation of delay in filing the appeal. The impugned order is dated 4th February, 2016. The appeal was filed on 2nd December, 2016. There is a huge delay of about 187 days in filing of the appeal. A perusal of the application shows that the reasons for the delay is merely that the legal department did not take a decision to file the appeal and thereafter, time was consumed by the Appellant's counsel for drafting and filing of the appeal.

2. These reasons do not justify condonation of such a huge delay as held in ***Postmaster General & Ors. v. Living Media India Ltd. & Anr. (2012) 3 SCC 563*** (hereinafter. '*Living Media*'), where the Supreme Court categorically held as under:

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to

advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all government bodies, their agencies and instrumentalities and unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of the few.

30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.

3. This position has been upheld by the Supreme Court in ***State of U.P. through Exe. Engineer v. Amar Nath Yadav (2014) 2 SCC 422*** and ***State of Rajasthan & Anr. v. Bal Kishan Mathur & Ors. (2014) 1 SCC 592***. This Court in various judgments has relied on the decision of the Supreme Court

in *Living Media (supra)*, and refused to condone the delay due to the lack of adequate explanation being offered by various Government agencies. Thus, the law on condonation of delay is quite well settled, even in respect of Government Authorities. In this view of the matter, CM Application 45709/2016 is liable to be dismissed. Ordered accordingly.

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4. In view of the fact that delay in filing the appeal has not been condoned, the present appeal is not maintainable and the same is dismissed along with all pending applications. The amount of Rs. 7,89,728/-, deposited by the Appellant vide order dated 8th December, 2016 is directed to be released in favour of the Respondent along with any interest which may have accrued thereon.

5. The date fixed before the Registrar i.e. 7th February, 2018 stands cancelled.

PRATHIBA M. SINGH, J.
Judge

JANUARY 10, 2018/j