

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

WRIT PETITION NO. 8560 OF 2018

Nanded District Central Co-operative
Bank Ltd. Nanded through its
Manager .. Petitioner

Versus

Hadgaon Taluka Kharedi Vikri Sangh
Ltd. Hadgaon Through its Chairman
and another .. Respondents

Shri Kamlakar J. Suryawanshi, Advocate for the Petitioner.
Shri S. S. Thombre, Advocate for the Respondent No. 1.
The Respondent No. 2 is served.

**CORAM : S. V. GANGAPURWALA AND
A. M. DHAVALA, JJ.**

DATE : 22ND JANUARY, 2019.

FINAL ORDER :

. Application filed by the petitioner for condonation of delay in filing appeal before the Debt Recovery Appellate Tribunal is rejected. The delay was of 45 days.

2. Heard Mr. Suryawanshi, the learned counsel for the petitioner and Mr. Thombre, the learned counsel for the respondent No. 1. It is submitted by Mr. Thombre, the learned counsel that, actually matter is settled between the parties. and

only to avoid issuance of no dues certificate, the petitioner has filed the appeal. There are absolutely no reasons given for condonation of delay. No explanation is coming forth.

3. We have considered the submissions canvassed by the learned counsel for respective parties.

4. In the present writ petition, it will not be possible for us to consider about the dues or otherwise. We are only restricting it to the extent of consideration of application for condonation of delay. It appears that, the petitioner had earlier filed writ petition before this Court. Same was disposed of on 09.04.2015 and thereafter the appeal along with application for condonation of delay was filed on 18.08.2015. The appeal is required to be filed within 60 days. The delay appears to be short period. The petitioner is a co-operative bank. It is submitted that because of the administrative intricacies the time was lost.

5. The administrative decision was required to be taken and in view of that the delay was caused. It is trite that when the technical considerations and cause for substantial justice are pitted against each other, cause for substantial justice has to be sub served.

3. In view of the above, we are inclined to condone the delay,

however, the petitioner also deserves to be mulct with cost.

4. In the light of the above, the impugned order rejecting the application for condonation of delay is quashed and set aside and Misc. Application No. 589 of 2015 seeking condonation of delay is allowed on condition that the petitioner pays cost of Rs. 25,000/- (Rs. Twenty Five thousands only) to the respondent No. 1 within a period of four (04) weeks from today.

5. The writ petition is accordingly disposed of. No costs.

[A. M. DHAVALÉ, J.]

[S. V. GANGAPURWALA, J.]

bsb / Jan. 19