

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 2550 OF 2019
IN
FIRST APPEAL ST. NO. 16153 OF 2019

M/s Aglowmed Ltd. Applicant.
Vs.
Employees State Insurance Corporation Respondent.

Mr. P.M. Bhagat, Advocate for Applicant.
Mr. H.V. Mehta, Advocate for Respondent.

CORAM : K.K.TATED, J.
DATED : AUGUST 8, 2019.

P.C.

Heard learned counsel for the parties.

2. By this Civil Application, Applicant is seeking condonation of 364 days delay in filing the First Appeal challenging the judgment and award dated 21.03.2018 passed by Employees State Insurance Court at Mumbai in application (ESI) No. 76 of 2014 dismissing the Applicant's Application to challenge the order under Section 45A of the ESI Act, 1948 dated 20.01.2012.

3. The learned Counsel for Applicant submits that their

officer Mr. Stephen – Head HR/Legal was in-charge of the matter. He left the company suddenly without properly handing over the charge. As a result Applicant company could not aware about the final order passed by E.I. Court dated 21.03.2018. Hence there is a delay in filing the First Appeal. In support of his contention, the learned counsel for Applicant relied on paragraph Nos. 4 and 5 of Civil Application. He submits that because of mistake on the part of their officer, the company should not suffer. He submits that, they have good chance of success in the present matter. He submits that in the interest of justice, this Hon'ble Court be please to condone the delay and matter to be heard on its own merits.

4. On the other hand, the learned counsel appearing on behalf of respondent vehemently opposed the present Civil Application. He submits that there is delay of more then 364 days in filing the First Appeal. He submits that applicant has not disclosed sufficient cause. He submits that because of mistake on the part of their officer, they are not entitled for condonation of delay. He submits that as the Applicant failed to disclose the sufficient cause, Civil Application required to be dismissed with costs.

5. I heard both the sides. By going throughout the

Paragraph Nos. 4 and 5 of Civil Application, shows that, because of mistake of the officers of the applicant, there is a delay in filing the first appeal. Because of mistake of the officer, the company should not suffer. Considering these facts, I am of the opinion that delay can be condoned, but at the same time they have to pay costs of Rs. 5000/- to the respondent. Hence following order.

- a) Delay in filing the First Appeal is condoned.
- b) Applicant to pay cost of Rs. 5000/- to the respondent on or before 31.08.2019 and place on record receipt to that effect failing which Civil Application that shall stand dismissed.
- c) Civil Application allowed accordingly.

(K.K.TATED, J.)