

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.**

WRIT PETITION NO.617 OF 2018

New Delhi Television Limited

... Petitioner

Vs

Securities and Exchange Board of India & anr.

... Respondents

Ms.Fereshte Sethna with Mr.Adhiraj Malhotra & Mr.Lokesh Aidasani i/b DMD Advocagtes for Petitioner

Mr.Shiraz Rustomjee, Senior Advocate with Mr.Jai Chhabria, Mr.Mihir Mody, Mr.Nirav Parmar and Mr.Arn timer Misra i/b K.Ashar & Co. for Respondent - SEBI

**CORAM: AKIL KURESHI &
S.J. KATHAWALLA, JJ.**

**JUDGEMENT RESERVED ON: AUGUST 19, 2019
JUDGEMENT DELIVERED ON: SEPTEMBER 4, 2019**

JUDGMENT (PER AKIL KURESHI, J.):

1. The petitioner has challenged orders dated 23.8.2017 and 31.8.2017 at Annexures Q and R respectively passed by Securities and Exchange Board of India, ('SEBI' for short) respondent No.1 herein. By such orders, SEBI rejected the petitioner's two separate applications for condonation of delay in filing settlement applications.

2. The petition arises in following background:

The petitioner is a company registered under the Companies Act and is engaged in the business of operating news channels. SEBI had initiated adjudication proceedings against the petitioner vide show-cause notice dated 12.2.2015 (**hereinafter referred to as ‘first show-cause notice’**) alleging violation of clause 36 of listing agreement on the ground that there was non-disclosure of a tax demand of Rs.450 crores which was raised under an assessment order dated 21.2.2014 against the company for AY 2009-2010. SEBI thereafter issued a corrigendum to the first show-cause notice on 17.3.2015.

3. On 4.3.2015, the petitioner filed reply to the said show-cause notice taking various defences *inter alia* contending that the petitioner was under legal advice and bonafide belief that the tax demand was not required to be reported under clause 36 of the listing agreement. The petitioner submitted additional documents under communications dated 10.4.2015 and 12.5.2015.

4. On 4.6.2015, SEBI passed order holding the petitioner liable for violation of clause 36 of the listing agreement and imposed a

penalty of Rs.25 lakhs under section 23A of the Securities Contracts (Regulation) Act, 1956.

5. On 23.7.2015, the petitioner filed appeal against the said order dated 4.6.2015 passed by SEBI before the Securities Appellate Tribunal, Mumbai ('the Tribunal' for short). At the time of filing of the petition, this appeal was pending.

6. On 20.8.2015, SEBI issued another show-cause notice **(hereinafter referred to as 'second show-cause notice')** against the company and its Directors and key managerial personnel. The allegations in the said show-cause notice included non-disclosure of tax demand of Rs.450 crores, delayed disclosure of certain sale of shares by Shri KVL Narayan Rao, Group CEO and Executive Vice-Chairman and delayed disclosure by the petitioner under the Securities and Exchange Board of India (Prohibition of Insider Trading) Regulations, 1992.

7. On 8.6.2016, the SEBI issued yet another show-cause notice **(hereinafter referred to as 'third show-cause notice')** to the petitioner for violation of certain provisions of Securities and Exchange Board of India (Substantial Acquisition of Shares and

Takeovers) Regulations, 1997 alleging certain non-disclosures. On 8.6.2016, the petitioner filed reply to the said show-cause notice raising various legal contentions.

8. According to the petitioner, there was no contravention of non-disclosure of tax demand which was the main subject matter of the first and second show-cause notices. With respect to the allegations in the third show-cause notice, the case of the petitioner is that it could trace the proof of some of the disclosures but could not trace the proof of the rest. Under the circumstances, without conceding to the correctness of the allegations made in the said show-cause notices, the petitioner took a decision to seek settlement of all the three cases. The petitioner accordingly filed settlement application dated 21.3.2017 with respect to the first and second show-cause notices. Likewise, the petitioner filed settlement application dated 24.7.2017 in respect of third show-cause notice. On 15.5.2017, the petitioner filed application for condonation of delay in filing the settlement application dated 21.3.2017. It appears that thereafter the settlement application was re-presented on 26.9.2017 which was confined to second show-cause notice. The settlement application of the petitioner

dated 24.7.2017 came to be returned by respondent No.1 under letter dated 31.7.2017 since the application for condonation of delay was not filed. However, opportunity was given to re-present the said settlement application within prescribed time after rectification. The petitioner accordingly refiled settlement application dated 24.7.2017 alongwith the application for condonation of delay dated 16.8.2017.

9. By the impugned order dated 23.7.2017, SEBI rejected the petitioner's application for condonation of delay dated 15.5.2017. By a further order at Annexure R, SEBI rejected the petitioner's application for condonation of delay dated 16.8.2017, consequently the respective settlement applications were returned. These orders, the petitioner has challenged in the present petition.

10. Learned Counsel for the petitioner took us through the documents on record and contended that -

- (i) No personal hearing was granted, though required. The Counsel submitted that the requirement of personal hearing should be read in the statutory provision and if not so read, the provision should be declared unconstitutional.

(ii) The impugned orders are non-reasoned orders. No reasons are cited for rejection of delay condonation of applications.

(iii) The petitioner had made out sufficient grounds for condoning delay. Delay, therefore, ought to have been condoned.

(iv) The delay in view of the statutory provisions should be construed liberally. The very purpose is to bring about settlement as far as possible. The said legislative intent cannot be destroyed by adopting a technical approach. SEBI thus committed a serious error in not entertaining settlement applications on merits simply rejecting on the ground of delay.

11. On the other hand, the learned Counsel for SEBI opposed the petition contending that the delay in both the cases was substantial which was not satisfactorily explained. The applications for condonation of delay did not disclose any ground for such long delay. SEBI considered the applications on merits and recorded that for want of satisfactory reasons, delay cannot be condoned.

The orders, therefore, cannot be termed as unreasoned orders. The reasons, howsoever brief, have been recorded. He submitted that the requirement of personal hearing cannot be read into the Regulations. SEBI was under no obligation to grant any personal hearing. As a norm, no such hearing is granted at the stage of considering applications for condonation of delay.

12. At this stage, we may peruse the relevant statutory provisions. Chapter VIA of the Securities and Exchange Board of India Act, 1992 (for short, 'the Act') pertains to penalties and adjudication. Sections 15A to 15HB contained in the said Chapter provide various penalties which may be imposed. Section 15L vests in the Board power to adjudicate on such penalties after holding enquiry. Section 15J prescribes factors to be taken into account while adjudicating quantum of penalty. Section 15JB pertains to settlement of administrative and civil proceedings, which reads as under:

"15JB. Settlement and administrative and civil proceedings.-

(1) Notwithstanding anything contained in any other law for the time being in force, any person, against whom any proceedings have been initiated or may be initiated under section 11, section 11B, section 11D, sub-section (3) of

section 12 or section 15-I, may file an application in writing to the Board proposing for settlement of the proceedings initiated or to be initiated for the alleged defaults.

(2) The Board may, after taking into consideration the nature, gravity and impact of defaults, agree to the proposal for settlement, on payment of such sum by the defaulter or on such other terms as may be determined by the Board in accordance with the regulations made under this Act.

(3) The settlement proceedings under this section shall be conducted in accordance with the procedure specified in the regulations made under this Act.

(4) No appeal shall lie under section 15T against any order passed by the Board or adjudicating officer, as the case may be, under this section.

(5) All settlement amounts, excluding the disgorgement amount and legal costs, realised under this Act shall be credited to the Consolidated Fund of India.”

13. Under subsection (1) of section 15JB of the Act thus, any person against whom proceedings have been initiated or may be initiated for alleged defaults under various provisions mentioned therein, may file an application in writing to the Board proposing for settlement of the proceedings. Under subsection (2) of section 15JB, the Board would decide such application. Subsection (3) of section 15JB provides that the settlement proceedings under the said section would be conducted in accordance with the procedure specified in the regulations made under the Act.

14. In exercise of powers under section 30 of the Act, the Board has framed Securities and Exchange Board of India (Settlement of

Administrative and Civil Proceedings) Regulations, 2014 (for short, the 'the said Regulations'). The terms 'alleged default' and 'specified proceedings' have been defined in clauses (b) and (f) respectively of sub-regulation (1) of regulation 2 of the said Regulations. Chapter II of the Regulations pertains to application for settlement. Regulation 3 contained in the said Chapter pertains to applications, relevant portion of which reads as under:

“Application.

3.(1) A person, against whom any specified proceedings have been initiated or may be initiated, may make an application to the Board in the Form specified in Part-A of the Schedule-I:

Provided that any person who proposes to dispose of any proceedings with regard to defaults under securities laws, pending before the Tribunal or a court, wherein the Board is a party may also file the settlement proposal in the Form as specified in Part-A of the Schedule-I.

(2) The application made under sub-regulation (1) shall be accompanied by a non-refundable application fee as specified in Part-B and the undertakings and waivers as specified in Part-C of the Schedule-I:

Provided that the rejection of the application shall not affect the continued validity of the undertakings and waivers and the Board or the applicant, subject to the undertakings and waivers, shall be free to resort to legal recourse as may be available under law.

(3) The applicant shall make full and true disclosures in the application in respect of the alleged default(s):
Provided that the facts established against the applicant or admitted by him in any ongoing or concluded proceedings

with respect to the same cause of action, under any law, shall be deemed to be admitted by the applicant in respect of the proceedings proposed to be settled.

(4) The applicant shall make one application for settlement of all the proceedings that have been initiated or may be initiated in respect of the same cause of action; Provided that an applicant, who has applied for compounding of an offence before a court for the same cause of action related to the specified proceedings, shall, within thirty days from the date of making the application, make an application under sub-regulation (1) in respect of the specified proceedings.”

Thus, sub-regulation (1) of regulation 3 provides that a person against whom any specified proceedings have been initiated or may be initiated, may make an application to the Board in the prescribed format. Sub-regulation (3) of regulation 3 requires the applicant to make full and true disclosures in such application in respect of the alleged defaults. Sub-regulation (4) provides that the applicant shall make one application for settlement of all the proceedings that have been initiated or may be initiated in respect of same cause of action.

15. Regulation 4 also contained in Chapter II pertains to limitation and reads as under:

“Limitation.

4. (1) No application in respect of any specified proceedings pending with the Board shall be considered if it is made after

sixty days from the date of service of the notice to show cause or supplementary notice(s) to show cause, whichever is served later.

(2) Notwithstanding anything contained in sub-regulation (1), the panel of whole time members may consider the application, if it is satisfied that there was sufficient cause for not filing it within the period specified in sub-regulation (1) and it is accompanied with an application for condonation of delay and non-refundable fees as specified in Part-B of the Schedule-I.

Provided that where the application is filed after sixty calendar days from the expiry of the period specified in sub-regulation (1), the settlement amount payable by the applicant shall be increased by a levy of simple interest at the rate of six per cent, per annum, from the expiry of the period specified in sub-regulation (1) till the date of filing.

(3) The provisions of this regulation shall not apply in the case of proceedings pending before the Tribunal or any court.”

16. Sub-regulation (1) of regulation 16 provides that save and otherwise provided in the Regulations, the provisions with regard to the settlement of specified proceedings shall *mutatis mutandis* apply to the application for settlement of any proceeding pending before the Tribunal or any Court.

17. With this statutory framework in mind, we may peruse the relevant documents on record. We may recall, the petitioner had filed application for settlement dated 21.3.2017 concerning the proceedings arising out of the first and second show-cause

notices. As recorded earlier, the first show-cause notice had already culminated into an order of adjudication which was the subject matter of appeal before the Tribunal. The second show-cause notice was still pending adjudication. In the application for condonation of delay, the petitioner tried to explain the delay in filing the settlement application from the date of issuing the second show-cause notice dated 20.8.2015. It was contended that the applicants were seeking legal advice as to whether show-cause notice can be issued after penalty has been imposed against the company which was also in issue for consideration before the Tribunal. The applicants, therefore, stated as under:

2. Further, in relation to the proposed settlement of the notice dated August 20, 2015 bearing reference no.EAD/PJ/JAK/OW/23470/2015 (**"Notice"**) issued by the Adjudicating Officer appointed by SEBI against the Applicant No.1, i.e., New Delhi Television Limited (**"NDTV"**) and director (s) and Key Managerial Personnel (s) of NDTV, being Dr.Prannoy Roy (**"Applicant No.2"**), Mrs.Radhika Roay (**"Applicant No.3"**), Mr.K.V.L. Narayan Rao (**"Applicant No.4"**), Mr.Vikramaditya Chandra (**"Applicant No.5"**) and Mr.Anoop Singh Juneja (**"Applicant No.6"**) (collectively referred to as the **"Applicants"**) it is submitted that:

- "The Applicants were seeking legal advice as to whether the show-cause notice can be issued after the penalty has been imposed against the company and further, this question was also under consideration before Hon'ble SAT in the appeal filed by Quantum

Securities Private Limited against the SEBI penalty order.

- The Applicants have now decided that considering the fact that the adjudication proceedings have not yet commenced and as an alternative the other legal recourse available to the Applicants is to propose settlement in the matter, considering the fact that it will be in the interest of all the Applicants and will lead to saving of time, cost and to quickly close the matter to avoid protracted litigation.
- In view of the above, all the Applicants filed the aforementioned settlement application. It is submitted as a measure of abundant caution, the Applicants request for the condonation of delay, if any, in filing the settlement application in terms of Regulation 4 of the Securities and Exchange Board of India (Settlement of Administrative and Civil Proceedings), regulations, 2014. The said delay is due to above reasons which are *bona-fide* and not deliberate and hence there was a sufficient cause for not making the settlement application within 60 days from the date of issuance of the aforesaid Notice. Hence the delay may please be condoned in the interest of justice.”

18. This application came to be rejected by the Board by the impugned order dated 23.8.2017. The order reads as under:

“Sir,

1. Reference may be given to the settlement application dated March 22, 2017 filed by you in the matter of NDTV Limited pursuant to the Show Cause Notices dated August 20, 2015 and May 11, 2012 along with an application for delay condonation.

2. The said application for condonation of delay was placed before the panel of Whole time Members in terms of Regulation 4(2) of the SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014.

3. The panel of Whole Time members did not find the reasons given as sufficient and has rejected the said application.

4. In view of the rejection of the application for condonation of delay, the subject settlement application is being returned in original along with demand draft.”

19. Likewise, the petitioner had moved application for condonation of delay dated 16.8.2017 in connection with the subsequent application for settlement concerning the third show-cause notice. In such application, the petitioner had in order to explain delay, stated as under:

“(b) Upon receipt of the Notice, the Applicant noticed that few of the non-disclosures were inf act duly disclosed to NSE and BSE and hence it became apparent to the Applicant that even the record of the said stock exchanges may not be complete/authentic. Hence, the Applicant began to verify as to whether the Applicant had made disclosures for each and every alleged non-disclosures and as mentioned in the Notice from its records which pertains to the following periods: (a) December 2007, (b) April 2008, and (c) March 2010 & March 2011. Since, the records pertained to considerably old period the entire verification exercise took considerable time to locate some more documentary evidence evidencing dispatch of the disclosures made to NSE and BSE under the Takeover Code which caused the delay in filing of the above referenced settlement application. Even now the Applicant is not sure if the non-disclosures which have been applied to be settled were actually made or not as it may be possible that the applicant could have misplaced the proof of the relevant disclosures; on account of various factors such as change of offices and compliance officers of the Applicant during the course of the past many years.

(c) Further, the Applicant was additionally seeking legal advice in the matter as to whether the Applicant will be able to sustain the discharge from all the non-disclosures given the fact that stock exchanges might have misplaced the alleged non-disclosures like the ones for which the documentary evidence is available with the Applicant.

(d) Considering the fact that the adjudication proceedings have not yet commenced and it will be in the interest of the Applicant which will also lead to saving of time, cost and to quickly resolve the matter to avoid protracted litigation. The Applicant decided to file the settlement application as an alternative to other legal recourse available to the Applicant.

(e) In view of the above, it is submitted that the Applicant requests for the condonation of delay, if any, in filing the settlement application in terms of Regulation 4 of the Securities and Exchange Board of India (Settlement of Administrative and Civil Proceedings), Regulations, 2014. The said delay is due to to above reasons which are *bona-fide* and not deliberate and hence there was a sufficient cause for not making the settlement application within sixty (60) days from the date of issuance of the aforesaid Notice. Hence, the delay may be condoned in the interest of justice.

(f) For the processing of Applicant's request for condonation of delay, the Applicant encloses herein a demand draft of INR 2,000/- bearing no.692110 dated August 16, 2017 issued by Standard Chartered Bank, New Delhi in favour of the Securities and Exchange Board of India and payable at Mumbai."

20. This application also came to be dismissed by the Board by the impugned order dated 31.8.2017 which reads as under:

"Sir,

1. Reference may be given to the settlement application dated July 27, 2017 filed by you in the matter of NDTV

Limited pursuant to Notice of Approved Enforcement Action dated June 8, 2016 along with an application for delay condonation.

2. The said application for condonation of delay was placed before the panel of Whole time Members in terms of Regulation 4(2) of the SEBI (Settlement of Administrative and Civil Proceedings) Regulations, 2014.

3. The panel of Whole Time members did not find the reasons given as sufficient and has rejected the said application.

4. In view of the rejection of the application for condonation of delay, the subject settlement application is being returned in original along with demand draft.”

21. Bare perusal of both the impugned orders would suggest that the Board had not cited any reasons for rejecting the respective obligations of the petitioner for condonation of the delay. Mere statement that the panel of wholetime members did not find the reasons given as sufficient, would not constitute proper reasons for dealing with the applications. Facts and grounds stated in both the delay condonation applications were different. However, both applications met with the same response from the Board. Citing identical one line consideration both applications were rejected. It ought to have been appreciated that the result of rejection of delay condonation applications would be to terminate respective settlement applications without consideration on merits. Greater consideration of the reasons cited for condonation of delay

was required. However, only for eliciting better reasons from the Board, we would not remand the matter which would only multiply the proceedings. We would consider whether the petitioner had made out sufficient grounds for condoning the delay, particularly bearing in mind the purport of regulation 4 of the said Regulations.

22. We find that the Board committed a serious error in rejecting both the applications for condonation of delay. Before examining the reasons cited by the petitioner for condonation of delay in these applications, we may have a closer look at the provisions contained in the said Regulations. The said Regulations have been framed to provide for the terms of settlement and the procedure for settlement and matters connected therewith or incidental therein. Under regulation 3, a person against whom any specified proceedings have been initiated or may be initiated can make an application to the Board for settlement in prescribed format. As per the sub-regulation (4) of regulation 3, the applicant would make one application for settlement of all proceedings that have been initiated or may be initiated in respect of same cause of action.

23. Regulation 4 pertains to limitation. Under sub-regulation (1) of regulation 4, no application in respect of any specified proceedings pending with the Board would be considered if it is made after 60 days from the date of service of the notice to show cause or supplementary notices to show cause, whichever is later. Sub-regulation (2) of regulation 4 however, authorises the panel of whole time members of the Board to condone delay in filing the application for settlement if it is satisfied that there was sufficient cause for not filing it within the period specified in the sub-regulation (1). Proviso to sub-regulation (2) provides that where the application is filed after expiry of 60 calendar days from the expiry of the period specified in the sub-regulation (1), the settlement amount payable by the applicant would be increased by a levy of simple interest @ 6% p.a. from the period specified in sub-regulation (1) till the date of filing. Sub-regulation (3) of regulation 4 provides that the provisions of the said regulation shall not apply in case of proceedings pending before the Tribunal or any Court. The sub-regulation (3) of regulation 4 would have relevance in the context of regulation 16. Sub-regulation (1) whereof provides that save as otherwise provided in the Regulations, the provisions with regard to the settlement of

specified proceedings shall *mutatis mutandis* apply to the application for settlement of any proceeding pending before the Tribunal or any Court.

24. A combined reading of Regulations 3, 4 and 16 of the said Regulations would show that any person against whom any specified proceedings have been initiated or may be initiated, can apply to the Board for settlement. Such application would also be maintainable when a specified case is pending before the Tribunal or in Court. The period of limitation prescribed under sub-regulation (1) of regulation 4 would be applicable only in connection with the application for settlement referred to in regulation 3. Such provision for limitation would not be applicable in case of proceedings pending before the Tribunal or Court. In other words, as long as such proceedings are pending before the Tribunal or Court, it would be open for a person to apply for settlement without any reference to limitation. Sub-regulation (2) authorises the panel of whole time members to condone delay upon being satisfied that sufficient cause for not filing the application within time is made out. As per the proviso to the sub-regulation (2), the delayed application would invite interest at

specified rates on settlement amount payable by the applicant from the expiry of the period specified in sub-regulation (1) till the date of filing of the application for settlement.

25. The power for condonation of delay flowing from the sub-regulation (2) of regulation 4, therefore, has to be construed liberally. Ordinarily, the Courts always give precedence to decisions of disputes on merits instead of terminating proceedings on technicality. Independent of such consistent approach of the Courts, the regulations in the present case clearly demonstrate an intent on the part of the framers of the regulations to consider the applications for condonation of delay liberally. As noted, the period of limitation is prescribed for an application for settlement only in respect of specified proceedings pending with the Board. No such period of limitation is prescribed when the application for settlement is made in terms of regulation 16, in relation to the proceeding pending before the Tribunal or any Court. Sub-regulation (2) of regulation 4 while granting power to condone delay, makes provision for levying interest to the extent of delay caused in filing the application. All these are indications suggesting that the limitation provision for making application for settlement

with accompanying application for condonation of delay should be liberally construed.

26. The issue can be looked from a slightly different angle. In connection with the case, even if the application of a person for settlement were to be rejected on the ground of delay which is not condoned, the concerned person can always file a fresh application for settlement after filing an appeal before the Tribunal, once the Board gives its final decision in the specified proceeding. At that stage, there would be no question of limitation for making such an application.

27. With this background, we may refer to the grounds made out by the petitioner in both the applications for condonation of delay. In the application dated 15.5.2017 as noted, the petitioner had stated that the petitioner had received two show-cause notices. The applicants were seeking legal advice whether show-cause notice can be issued after the penalty has been imposed against the company. The applicants then decided that considering the fact that adjudication proceedings have not yet commenced, as a preferred alternative to avoid protracted litigation, it was decided to opt for settlement. It was in these circumstances that the petitioner

applied for settlement and also for condonation of delay by way of abundant caution.

28. Thus, sufficient grounds were made out for condonation of delay. It may be that from the date of second show-cause notice, the period of delay was substantial. However, mere number of days of delay would not decide the sufficiency of cause made out by the applicant for condonation of delay. In the present case, it was pointed out that there was legal doubt whether once the company has been visited with penalty, subsequently show-cause notice can be issued against the directors of the company. Keeping the said legal dispute aside, it was decided to offer the settlement which would bring an early end to the dispute. The decision to offer settlement was, therefore, taken for saving time, cost and to bring early end to the litigation. The Board summarily rejected the said application by recording one line reason that the panel of whole time members did not find the reasons sufficient.

29. So is the case with the second application for condonation of delay dated 16.8.2017. In this application, the petitioner had made out further elaborate grounds. It was pointed out that upon receipt of the show-cause notice alleging certain non-disclosures, the

petitioner began to verify whether all disclosures were duly made or not. These non-disclosures pertained to December, 2007, April, 2008, March, 2010 and March, 2011. Since the records were old, verification exercise took considerable time. Attempt was made to trace out documents of disclosure and despatch made to NSE and BSE. This caused further delay. It was further stated that even at present, the petitioner was not fully confident whether all disclosures were duly made or not. It is possible that though disclosures may have been made, documents are not immediately traceable since various officers in charge have changed from time to time. The petitioner was also additionally seeking legal advice on various aspects. Considering such facts and also looking to the fact that the adjudication proceedings have not commenced, the petitioner had in order to save time, cost and to curtail litigation, decided to apply for settlement.

30. The grounds made out for condonation of delay were elaborate and sufficient. Such grounds were rejected with one sentence that they were not found sufficient. In this case also, in our opinion, the Board has committed a serious error.

31. In both the cases, it was specifically stated by the petitioner and not refuted by the Board that at the time of making the settlement application, adjudication proceedings (of second and third show-cause notices) had not yet commenced. No progress at all in the show-cause notices had, therefore, been made. The petitioner had not benefited out of delay.

32. Before closing, we may recall, that the petitioner was not granted personal hearing. It is well settled that requirement of hearing as part of principles of natural justice does not necessarily include personal hearing. Same would depend on the nature of the dispute, the statute in which hearing is explicit or otherwise envisaged, etc. In the present case, we are not inclined to express any conclusive opinion with respect to the right of an applicant of settlement application to be heard in person at the stage where application for condonation is being decided by the Board. We leave such an issue open to be gone into in an appropriate case.

33. Under the circumstances, both the impugned orders dated 23.8.2017 and 31.8.2017 are set aside. The applications for condonation of delay at exhibit M and exhibit P stand allowed. Delay is ordered to be condoned and both the settlement

applications dated 21.3.2017 and 24.7.2017 shall be decided on merits. Consequently, if any order of adjudication has been passed after the filing of the settlement applications in respect of show-cause notices, which are the subject matter of these settlement applications, the same would be rendered invalid.

34. Writ petition is thus allowed and disposed of accordingly.

(S.J. KATHAWALLA, J.)

(AKIL KURESHI, J.)

Vishwanath
S. Sherla

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signed by
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