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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ W.P.(C) 1027/2019

GENERAL MANAGER, DISTRICT INDUSTRIES CENTRE

..... Petitioner

Through: Mr. Samar Vijay Singh, Adv.

versus

M/S JAI RAPID ROLLERS LTD. AND ANR. ..... Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE VIPIN SANGHI
HON'BLE MR. JUSTICE I. S. MEHTA

<u>O R D E R</u>

% **01.02.2019**

<u>C.M. No. 4629/2019</u>

Exemption allowed, subject to all just exceptions. The application stands disposed of.

<u>W.P.(C) 1027/2019</u>

The petitioner has preferred the present writ petition to assail the order dated 31.10.2017 passed by the DRT-II in I.A. No. 660/2011 in Appeal No. 8/2011.

The petitioner had preferred the said application to seek condonation of delay of 878 days in filing the said appeal. In an earlier round, orders had been passed by the DRAT and DRT -II on 16.07.2014 and 08.05.2013 respectively, holding that they were not possessed of the power to condone the delay. The petitioner then approached this Court vide W.P. (C) No.

1535/2015 which was disposed of on 19.02.2016, setting aside these orders. The aforesaid appeal and the application seeking condonation of delay were restored and the Tribunal was directed to decide whether sufficient cause had been shown for condonation of delay.

When the application seeking condonation of delay was again considered by the Tribunal, the Tribunal has again concluded that it did not have the power to condone the delay. For this purpose the Tribunal has relied upon the latest judgment of the Supreme Court in ***International Asset Reconstruction Company of India Limited and Others v. The Official Liquidator of Aldrich Pharmaceuticals Ltd. and others***, Civil Appeal No. 16962/2017, decided on 24.10.2017 wherein the Supreme Court has observed:

> *"11. Section 5 of the Limitation Act provides that the appeal or application, with the exception of Order XXI, CPC may be admitted after the prescribed period, if the applicant satisfies the court that he has sufficient cause for not preferring the application within time. The prerequisite, therefore, is the pendency of a proceeding before a court. The proceedings under the Act being before a statutory Tribunal, it cannot be placed at par with proceedings before a court. The Tribunal shall therefore have no powers to condone delay, unless expressly conferred by the Statute creating it. In* **Sakuru vs. Tanaji***, (1985) 3 SCC 590, it was observed that:*
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> > *"3…that the provisions of the Limitation Act, 1963 apply only to proceedings in 'courts' and not to appeals or applications before bodies other than courts such as quasi-judicial Tribunals or executive authorities, notwithstanding the fact the such bodies or authorities may be vested with certain specified powers conferred on courts under the Codes of Civil or Criminal Procedure. The*

Collector before whom the appeal was preferred by the appellant herein under Section 90 of the Act not being a court, the Limitation Act, as such, had no applicability to the proceedings before him. But even in such a situation the relevant special statute may contain an express provision conferring on the appellate authority, such as the Collector, the power to extend the prescribed period of limitation on sufficient cause being shown by laying down that the provisions of Section 5 of the Limitation Act shall be applicable to such proceedings. Hence it becomes necessary to examine whether the Act contains any such provision entitling the Collector to invoke the provisions of Section 5 of the Limitation Act for condonation of the delay in the filing of the appeal…"

Consequently, the Tribunal has again rejected the petitioner's application to seek condonation of delay on the ground that the Tribunal has no such power.

The submission of learned counsel for the petitioner is that the order passed by the Tribunal is in the teeth of the order passed by this Court in W.P. (C) No. 1535/2015 on 19.02.2016. At the same time, he has not been able to point out as to why the decision in ***International Asset Reconstruction Company*** (supra) is not attracted to this case.

We do not find any merit in the submission of the learned counsel for the petitioner for the reason that when the order dated 19.02.2016 was passed by this Court in W.P. (C) No. 1535/2015, this Court did not have the benefit of the view of the Supreme Court in ***International Asset Reconstruction Company*** (supra). That decision was rendered subsequently on 24.10.2017.

Thus, the Tribunal was bound to follow that decision in preference of the order passed by this Court on 19.02.2016. We, therefore, find no merit in this petition.

Dismissed.

VIPIN SANGHI, J

I. S. MEHTA, J

FEBRUARY 01, 2019

N.Khanna