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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **FAO(OS) (COMM) 359/2019 & CM APPL. 53414-53416/2019**  
**RAMCHANDER** ..... Appellant  
Through Mr. Anil Goel, Mr. Aditya Goel,  
Advocates.  
versus  
**UNION OF INDIA & ANR** ..... Respondent  
Through Mr. Jagjit Singh, Sr. Standing  
Counsel for Railways with Mr. Preet  
Singh, Mr. Vipin Chaudhary,  
Advocates.

**CORAM:**

**HON'BLE MS. JUSTICE HIMA KOHLI**

**HON'BLE MS. JUSTICE ASHA MENON**

**ORDER**

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**13.12.2019**

**CM APPL. 53415/2019 (by the appellant seeking condonation of delay of 45 days in filing the appeal)**

1. The present application has been filed by the appellant praying *inter alia* for condonation of delay of 45 days in filing the accompanying appeal whereunder a challenge has been laid to the judgment dated 28.08.2017, passed by the learned Single Judge, setting aside the award dated 26.05.2015, passed by the Arbitral Tribunal.

2. As per the report of the Registry, the delay on the part of the appellant in filing the present appeal runs into 621 days. However, the present application mentions a delay of only 45 days. The ground sought to be offered for condonation of delay of 45 days is that renovation work in the office of the learned counsel for the appellant was taking place and the clerk had erroneously placed the original file of the present appeal with disposed

of cases that could be traced out with best efforts only on 22.10.2019.

3. On enquiring from the learned counsel for the appellant as to why has the period of delay been miscalculated, he refers to the order dated 11.07.2019, passed in I.A. No. 4321/2018, an application moved by the appellant before the learned Single Judge under Section 152 CPC on 02.04.2018 asking for rectification of clerical/typographical mistakes in the order dated 28.08.2017 and states that the moment he had filed an application under Section 152 CPC and the same was entertained by the learned Single Judge, limitation had stopped running and started to run again only after 11.07.2019, when the captioned application was dismissed.

4. The aforesaid argument is meritless. There is no question of the limitation stopping merely because the appellant elected to file an application under Section 152 CPC that was entertained. For that matter, even if an application was filed by him for seeking review of the impugned judgment, pendency of the application could not be a ground for condoning the delay unless and until the review application or an application of the nature that was moved by the appellant, would have been allowed in his favour. On the contrary, in the instant case, the application filed by the appellant under Section 152 CPC was dismissed by the learned Single Judge.

5. No other explanation has been offered by learned counsel for the appellant for explaining the delay of 621 days in filing the accompanying appeal. Accordingly, the present application is dismissed.

**FAO(OS) (COMM) 359/2019, CM APPL. 53414/2019 (exemption) & CM APPL. 53416/2019 (by the appellant seeking condonation of delay of 16 days in re-filing the appeal)**

1. As a consequence of the order passed above, the accompanying appeal is dismissed along with the other pending applications.

**HIMA KOHLI, J**

**ASHA MENON, J**

**DECEMBER 13, 2019/MK**