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

+ **CRL.L.P. 211/2019 and CRL.M.A. 5830/2019**

M/S KTC (INDIA) PVT. LTD. Applicant

Through: Mr Anurag Ojha and Ms Srishti
Thukral, Advocates.

versus

M/S. SSARA TRAVELS & ANR Respondents

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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16.10.2019

CRL.M.A. 5830/2019

1. The said application has been filed for condonation of delay of 270 days in filing the present leave to appeal.
2. The applicant states that the said delay in filing has been caused due to fact that the applicant's previous counsel misplaced the trial court record and papers due to shifting of his office.
3. The impugned judgment was rendered on 28.05.2018 and admittedly the certified copies of the same were made available on 08.06.2018. The applicant has averred that he had instructed his counsel to file an appeal and his counsel had assured him that the same would be done. It is stated that "on further communication" it was pointed out that an appeal would lie to this Court and some other counsel would be required to be engaged. The applicant states that since no counsel was engaged "after elapse of substantial time", the applicant sought papers to engage another counsel. He states that delivery of trial court papers was delayed on account of

being misplaced in shifting of the counsel's office and the same has resulted in delay in lodging the present petition seeking leave to appeal.

4. The present petition seeking leave to appeal has been filed on 08.03.2019.

5. It is at once apparent from the plain reading of the application that the same is bereft of any particulars. Apart from stating that the counsel engaged by the applicant had not filed the appeal despite elapse of *substantial time*, there is little explanation for the delay. More importantly, the applicant has not provided any timelines as to when he was informed that an appeal was required to be filed by this Court; the date on which he had sought papers to engage another counsel; the dates on which the trial court records were misplaced and were found.

6. It is settled law that the day to day delay has to be explained with material particulars. In ***Ramlal, Motilal and Chhotelal vs. Rewa Coalfields Ltd.: AIR 1962 SC 361***, the Supreme Court held as under:

“8.In our opinion, it would be immaterial and even irrelevant to invoke general considerations of diligence of parties in construing the words of Section 5. The context seems to suggest that “within such period” means within the period which ends with the last day of limitation prescribed. In other words, in all cases falling under Section 5 what the party has to show is why he did not file an appeal on the last day of limitation prescribed. That may inevitably mean that the party will have to show sufficient cause not only for not filing the appeal on the last day but to explain the delay made thereafter day by day. In other words, in showing sufficient cause for condoning the delay the party may be called upon to explain for the whole of the delay covered by the period between the last day prescribed for filing the appeal and the

day on which the appeal is filed.....”

7. In the present case, admittedly, the delay in filing the appeal is 270 days and there is no credible explanation for the said delay.

8. In view of the above, the application is unmerited and is, accordingly, dismissed. Consequently, the petition seeking leave to appeal is also dismissed.

VIBHU BAKHRU, J

OCTOBER 16, 2019
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