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

+ **W.P.(C) 4063/2019 and CM APPL. 18328/2019 (Stay)**

B P GUPTA

..... Petitioner

Through: Mr.Prem Garg, Advocate.

versus

GOVT OF NCT OF DELHI & ANR

..... Respondents

Through: Mr.R.K.Gupta, Advocate for R-2.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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15.11.2019

1. This petition has been filed challenging the order dated 4th January, 2019 passed by the Delhi Co-operative Tribunal ('DCT'), dismissing the Petitioner's appeal on the ground of delay.

2. On 23rd April, 2019, the following order was passed by the Court:-

Learned counsel for the petitioner submits that the petitioner, if granted one more opportunity to file an additional affidavit before the Delhi Co-operative Tribunal along with the relevant documents to substantiate his plea that there was sufficient cause for condonation of delay in filing the appeal before the Tribunal, he would file the said affidavit within the time that may be granted by this Court.

Considering the fact that the appeal had been preferred by the petitioner in the year 2013, and the same remained pending for nearly 6 years before its dismissal on 04.01.2019 on the ground of limitation, prima facie, we are inclined to grant one more opportunity to the petitioner to file an additional affidavit

before the Delhi Co-operative Tribunal.

Issue notice to the respondents returnable on 15.11.2019.”

3. Pursuant to the above order, the Petitioner has on 26th September, 2019 filed an additional affidavit before the Tribunal.

4. Despite service, none appears on behalf of Respondent No. 1. Counsel appearing for Respondent No. 2 has been heard.

5. In view of the fact that the Petitioner has filed an additional affidavit, which in the considered view of the Court requires the consideration of the DCT, the Court sets aside the impugned order and restores the Petitioner's appeal along with his application for condonation of delay before the Tribunal and directs that it will be listed before the Tribunal on 9th January, 2020.

6. The Tribunal will be uninfluenced by the earlier order dated 4th January, 2019 and once again deal with the application for condonation of delay in light of the affidavit now filed by the Petitioner. If the Tribunal decides to condone the delay it should proceed to consider the appeal on merits.

7. The petition is allowed in the above terms. The pending application also stands disposed of.

S.MURALIDHAR, J.

TALWANT SINGH, J.

NOVEMBER 15, 2019/*mr*