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

\+ W.P.(C) 5951/2019

SMT. SONIA SHARMA AND ANR. ..... Petitioners

Through: Mr. Raman Gandhi and Ms. Harsha Sharma, Advs.

versus

SECURITIES AND EXCHANGE BOARD OF INDIA ..... Respondent

Through: Mr. Ashish Aggarwal and Ms. Shefali Kishore, Advs.

CORAM:
HON'BLE MR. JUSTICE V. KAMESWAR RAO

O R D E R

% **20.08.2019**

CM. No. 37168/2019 (for exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

CM. No. 37167/2019 (for delay)

This is an application filed by the petitioner seeking condonation of 42 days delay in filing the review petition.

For the reasons stated in the application delay of 42 days in filing review petition is condoned.

Application stands disposed of.

REV. PET. 325/2019

The present petition has been filed by the petitioner seeking review of order dated July 26, 2019, which reads as under:

On the last date of hearing this court had passed the following order:-

> "*Even though, the challenge in the writ petition is to an order passed by the Whole Time Member of Securities and Exchange Board of India dated January 11, 2013, learned counsel for the petitioners concedes that there is a remedy of appeal available to the petitioners. He also states that since the order is of January 11, 2013, it is barred by time. Be that as it may, issue notice to the respondent for relegating the petitioners to the remedy of appellate jurisdiction under SEBI Act, 1992 returnable on 26th July, 2019."*

Mr. Malhotra, learned Senior counsel appearing for the respondent states that the petitioner has a remedy of appeal for which the limitation period is of 45 days, but power exists with the Appellate Authority to condone the delay provided the petitioners show sufficient cause for condonation of the same. Noting the above, relegating the petitioner to the Appellate jurisdiction. The petition is disposed of.

It go without saying that the appeal accompanied by an application for condonation of delay shall be considered in accordance with the law.

The only submission made by the learned counsel for the petitioner is that the issue involved in the writ petition is a pure question of law and he should not be relegated to the Appellate Tribunal. I am not impressed by the submission made by the learned counsel for the petitioner as when there is a remedy available to the petitioners, they should avail the same and this court cannot allow them to by-pass the process in view of the Judgment of the Supreme Court in the case of ***Authorised Officer, State Bank of Travancore and Ors. vs. Mathew K.C.***, wherein Para 14 it is held as under:

> *"14. In Ikbal (supra), it was observed that the action of the Bank under Section 13(4) of the 'SARFAESI Act' available to challenge by the aggrieved under Section 17 was an efficacious remedy and the institution directly*

under Article 226 was not sustainable, relying upon Satyawati Tandon (Supra), observing :

> *"27. No doubt an alternative remedy is not an absolute bar to the exercise of extraordinary jurisdiction under Article 226 but by now it is well settled that where a statute provides efficacious and adequate remedy, the High Court will do well in not entertaining a petition under Article 226. On misplaced considerations, statutory procedures cannot be allowed to be circumvented.*
>
> *28…….In our view, there was no justification whatsoever for the learned Single Judge to allow the borrower to bypass the efficacious remedy provided to him under Section 17 and invoke the extraordinary jurisdiction in his favour when he had disentitled himself for such relief by his conduct. The Single Judge was clearly in error in invoking his extraordinary jurisdiction under Article 226 in light of the peculiar facts indicated above. The Division Bench also erred in affirming the erroneous order of the Single Judge."*

Moreover, I find that even the notice in the writ petition was issued for relegating the petitioner to the Appellate jurisdiction. If that be so, the review petition is dismissed.

V. KAMESWAR RAO, J

AUGUST 20, 2019/*jg*