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

+ W.P.(C) 3592/2018

MOHD. AKHTAR @ RAJA

..... Petitioner

Through: Mr S. K. Santoshi, Advocate.

versus

UNION OF INDIA AND ANR.

..... Respondents

Through: Mr Atul Batra, Advocate for
respondent.

Mr Gautam Narayan, ASC for
GNCTD with Ms Mahamaya
Chatterjee, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **19.02.2019**

1. The petitioner has filed the present petition impugning an order dated 16.11.2017 (hereafter 'the impugned order') passed by the Appellate Tribunal for Forfeited Property (hereafter 'the Tribunal').
2. By way of the impugned order, the Tribunal rejected the petitioner's appeal against an order dated 20.05.2016 passed by respondent no.1 confirming the order of the Investigation Officer, on the ground that it was filed beyond the limitation period as prescribed under Section 68O(1) of the Narcotic Drugs & Psychotropic Substances Act, 1985 (hereafter 'NDPS Act').
3. Admittedly, the appeal was filed after the expiry of sixty days from the date of receipt of the order passed by the Competent Authority. The petitioner also filed an application seeking condonation

of delay in filing the said appeal. While dismissing the appeal, the Tribunal held that in view of the express language of Section 68O(1) of NDPS Act, it has no power to condone the delay in filing the appeal after the expiry of sixty days from the date of service of the order appealed against, on the appellant.

4. The brief factual matrix of the matter leading up to the filing of the present petition is as under:

4.1 The investigating authorities of Narcotic Control Bureau recovered psychotropic substances from certain persons – one Harjinder Singh in Jalandhar, Punjab and one Shri Durgesh in Laxmi Nagar, Delhi. Consequently, the said persons were arrested on 18.11.2015 under the provisions of NDPS Act.

4.2 During the investigation, 525 gms of heroin was also recovered from the house of the petitioner in Chauhan Nagar Area, Delhi and thereafter, he was arrested on 25.11.2015.

4.3 The Investigating Officer, during the course of investigation, further discovered that the aforesaid persons had acquired certain movable and immovable properties. It is alleged that the said properties were acquired by the Affected Persons from the illegal income earned through illicit traffic.

4.4 Thereafter, the Investigation Officer passed an order dated 27.04.2016 (being No. 1478/ACP/Spl. Cell/NR/OC) freezing the said acquired properties of the Affected Persons. The aforesaid order passed by the Investigating Officer was confirmed by the Competent Authority by way of an order dated 20.05.2016.

4.5 The petitioner was granted an interim bail by the Special Judge by an order dated 31.05.2016. Thereafter, the petitioner filed an appeal on 26.07.2016 against the order dated 20.05.2016 passed by the Competent Authority. The petitioner also moved an application for condonation of delay alongwith the said appeal.

4.6 The said appeal was disposed of by way of the impugned order, whereby the Tribunal dismissed the said appeal of the petitioner being not maintainable on the ground of delay. The Tribunal held that the appeal was filed beyond the limitation period of sixty days as prescribed under Section 68O(1) of the NDPS Act. The relevant extract from the impugned order is set out below:

“5. Considering the relevant fact, provision of law and judgments noted above, it is held that this Tribunal has no power even to condone a single day delay after the statutory sixty days from the date of service of impugned order on the appellant. The appeal is therefore dismissed being not maintainable on the ground of delay. No order as to cost.”

5. The controversy involved in the present petition is covered by the decision of this Court rendered today in ***Omaxe BuildHome Ltd. v. Union of India & Anr.: W.P. (C) 1722/2019***.

6. In view of the reasons stated in W.P. (C) 1722/2019, no relief can be granted to the petitioner in the present petition. The same is, accordingly, dismissed.

VIBHU BAKHRU, J

FEBRUARY 19, 2019/pkv