

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

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*Reserved on: 19th July, 2019
Pronounced on: 15 October 2019*

+ **FAO(OS) (COMM) 14/2018, CM Nos. 3178/2018 & 3180/2018**
UNION OF INDIA Appellant

Through **Mr. Ruchir Mishra with Mr. Mukesh
Kumar Tiwari, Advocates.**
versus

M/S ASSOCIATED CONSTRUCTION CO Respondent

Through **Dr. Amit George, Mr. Rishabh Dheer,
Mr. Swaroop George & Mr. Amol
Acharya, Advocates.**

CORAM:

HON'BLE MR. JUSTICE G.S.SISTANI

HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL

G.S.SISTANI, J.

FAO(OS) (COMM) 14/2018, CM Nos. 3178/2018 & 3180/2018

1. This is an appeal under Section 13 of Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (hereinafter referred to as "The Commercial Courts Act") read with Section 37 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as "the Act"), assailing the order dated 17.08.2016 (hereinafter referred to as the "impugned order") passed by the learned Single Judge of this Court, whereby the learned Single Judge has upheld the award of claims no.5 and 11, while dismissing the objections to the Arbitral Award dated 26.06.2015 filed under Section 34 of the Act.

2. The brief facts of the present appeal are that the parties had entered into a contract dated 28th February'2009 for the provision of OTM Accommodation for CASD at Delhi Cantt-10 (CA No. CEDZ-27 of 2008-09). The estimated contract price was for an amount of Rs. 6,20,75,026.71/-. Initially, the period of completion was for 15 months, w.e.f 14th March, 2009 to 13th June, 2010, however, the said period was subsequently extended by the respondent and the work was actually completed on 21st February, 2012. However, certain disputes arose during the execution of work between the parties. Arbitration was invoked as per the terms of the contract. The appellant restricted the challenge to claim no.5 pertaining to material and labour escalation and claim no.11, pertaining to the pendente-lite and future interest. The Sole Arbitrator allowed both the claims by awarding a sum of Rs. 49,25,240/- against claim No.5 and by rendering simple interest of 12% per annum in the favour of the respondent. Aggrieved by the Award, the appellant moved the court under Section 34 of the Act by filing an O.M.P (C) 89/2016 before the learned Single Judge challenging the said Award. The learned Single Judge dismissed the petition on the ground that the Sole Arbitrator had pronounced the award in consonance with the contract, hence, the present appeal.
3. Applications being CM APPLs 3178/2018 (application under Section 5 of Limitation Act, 1963 for condonation of delay in filing the appeal) and 3180/2018 (application under Section 5 of Limitation Act, 1963 for condonation of delay in re-filing the appeal) have been filed by the appellant. Notices in the aforesaid applications have been issued.

4. At the outset, we may note that the appellant seeks condonation of 227 days' delay in filing the present appeal and 200 days in re-filing of the appeal.
5. Mr. Ruchir Mishra, learned counsel appearing for the appellant submits that the delay in filing the appeal was not intentional but for bonafide reasons. It is contended that post obtaining the certified copy, the appeal could not be filed within the period of limitation due to procedural delays. Counsel further submits that the rejoinder filed by the appellant provides for the breakup and the precise manner, as per which, the file moved from one desk to another. Alternatively, it is contended that a complete reading of the rejoinder would show that at no point of time, the applicant was either negligent or careless and the delay was on account of bonafide reasons. We are constrained to note that this application seeking condonation of delay is not only vague but lacks material particulars. However, detailed reasons have been given in the rejoinder, which we deem appropriate to take into consideration. It has been pointed out that the impugned order was passed on 17.08.2016. The appellant gained knowledge of passing of this order on 25.08.2016 when a copy was downloaded from the internet. Thereafter, the appellant sought an opinion vide letter dated 30.08.2016 from the Government counsel, who had appeared in the O.M.P. (COMM) 89/2016. The counsel was requested to provide grounds of challenge to the impugned order. The counsel rendered his opinion on 05.09.2016, advising the department to file an appeal against the impugned order. Thereafter, the counsel was requested to provide certified copy of the order to the department. On 06.09.2016, counsel made an application

for obtaining a certified copy, which was prepared and delivered on 27.09.2016. Based on the opinion, the department was required to place the matter before the Legal Advisor (LA), Defence for his views and opinion in the matter and to take a decision regarding the future course of action. It is highlighted in paragraph 10 that an administrative route involving the concerned authority in hierarchy is necessary to be followed, which is reproduced below:

*“(1) Initiating office i.e. the concerned office of Garrison Engineer, which is GE (Project) West in the present case, shall prepare necessary note/letter to place it before next higher authority which is HQ Commander Works Engineer (CWE) Project in the present case;
(2) HQ CWE Project shall consider the note and the issue as placed by concerned office of the GE and thereafter shall place it to the next higher authority i.e. HQ Chief Engineer, Delhi Zone, Delhi Cantt;
(3) HQ Chief Engineer, Delhi Zone shall place the issue to Directorate of Contract Management Military Engineering Service, Engineer in Chief Branch, Integrated HQ of Ministry of Defence (Army) Kashmir House, Rajaji Marg, New Delhi and then;
(4) It is placed before LA (Defence), Ministry of Defence ‘D’ work-II, Delhi;”*

6. It is submitted before us that as per the above procedure, letter dated 07.09.2016 was prepared by G.E. (Project) West and was placed before the next office in hierarchy which is HQ CWE. Thereafter, note of G.E. was placed by HQ CWE vide letter dated 14.09.2016 before H.Q. Chief Engineer, Delhi Zone, who vide letter dated 10.10.2016, placed the file before Directorate of Management, Engineer-in-Chief’s Branch, wherefrom it was placed vide letter dated 24.10.2016 before the Ministry of Defence, ‘D’ work-II, Delhi for advice of LA (Defence),

which was received by LA (Defence) on 02.11.2016. It is also highlighted that G.E. (Project) West, which had initiated the process to place the issue before LA (Defence) vide letter dated 07.09.2016, had subsequently enquired about the status of the decision on its note and opinion of LA (Defence) and after conducting an inquiry, the office of G.E. (Project) West had informed the status to its immediate higher office HQ CWE vide letter dated 04.09.2016, which was followed up by another letter dated 08.11.2016 written by G.E. (Project) West to HQ CWE. The rejoinder further highlights that LA (Defence) rendered his opinion vide letter dated 25.11.2016 wherein he had expressed that the order of the learned Single Judge should be challenged before a Division Bench. Pending receipt of original opinion of LA (Defence), the office of Chief Engineer then issued a letter on 25.11.2016, which was received by the office of G.E. (Project) West on 30.11.2016 issuing instructions to initiate steps to avail the remedy. Thereafter, a request was made to the litigation section of the Delhi High Court, Ministry of Law & Justice, to appoint a government counsel. Litigation section issued a letter on 05.12.2016 appointing the present counsel in the matter. The letter of litigation section was received in the office of G.E. (Project) West on 31.12.2016. After that some preliminary discussions were held with the counsel on 04.01.2017. Counsel sought original documents and records of the case. Counsel also demanded grounds of challenge on 23.01.2017, which were proposed by the then government counsel, which were received on 11.02.2017 and provided to the counsel in the last week of February, 2017. The counsel, thereafter, sought various information from the department and then it came to

light that appropriate remedy was available under the provisions of the Act. The file was then made available to the counsel on 21.04.2017. The counsel, on the basis of record, had prepared a draft appeal and provided the same by email on 21.04.2017. It is also stated that the complete file was made available only on 21.04.2017. Thereafter, the draft appeal received from the counsel was examined by the department. Counsel was provided further documents on 26.05.2017 vide letter dated 27.05.2017, which was delivered to the counsel on 29.05.2017. Clarifications were also given to the counsel. Counsel had also sought various other inputs. The appeal was then filed on 31.05.2017. Copies were provided to the department on 10.06.2017, which were put up to the higher authorities for their examination. On 05.07.2017, counsel was provided with the events in chronological order in support of application for delay. The counsel was also provided additional explanation with regard to working of empirical formula, which the counsel advised to incorporate in the appeal. Accordingly, additional explanation and grounds were incorporated in the appeal and the modified appeal was provided to the department in or by the 3rd week of July, 2017. Further clarifications were raised and approval was granted for re-filing the appeal. It has further been stated that the concerned officer, who had signed and affirmed the appeal was on leave from 26.09.2016 to 28.10.2016 and 29.10.2016 being a Sunday, he resumed office on 30.10.2017. Therefore, the modifications in the appeal as were suggested and incorporated by the counsel could only be shown to the concerned officer, who had then joined his department. Thereafter, an application for condonation of delay for re-filing the

appeal was prepared. It has been strongly urged before us that detailed sequence of events would show that every effort was made to file the appeal within the period of limitation, but the delay has occurred only on account of procedural reasons.

7. Mr. Mishra submits while placing the reliance upon the case of ***Kalpesh R. Jain & others Vs. Mandev Tubes Pvt. Ltd.*** reported at 2017 SCC OnLine Bom 8882, that the Division Bench of the Bombay High Court has held that Section 5 of Limitation Act, 1963 can be invoked and applied to an appeal filed under Section 37 of the Act read with Section 13 of the Commercial Courts Act to condone the delay, provided the same is backed by sufficient cause. It is also contended that the Apex Court in the case of ***Union of India vs. Giani*** reported at (2011) 11 SCC 480 allowed the application of a party considering that it had a strong arguable case. The Apex Court held that the Court should decide the matter on merit by giving the expression “sufficient cause” a pragmatic justice- oriented approach.
8. Mr. Mishra further relied upon a decision rendered in the case of ***N. Balakrishnan v. M. Krishnamurthy*** reported at (1998) 7 SCC 123, more particularly, para 9, which we reproduce below, in support of his submission that condonation of delay is a matter of discretion wherein acceptability of the explanation is the only criterion. He further submits that the Supreme Court has repeatedly held that the Courts should take a liberal approach while deciding the applications under Section 5 of the Limitation Act.

“9. It is axiomatic that condonation of delay is a matter of discretion of the court. Section 5 of the Limitation Act does not say that such discretion can be exercised only if

the delay is within a certain limit. Length of delay is no matter, acceptability of the explanation is the only criterion. Sometimes delay of the shortest range may be uncondonable due to a want of acceptable explanation whereas in certain other cases, delay of a very long range can be condoned as the explanation thereof is satisfactory. Once the court accepts the explanation as sufficient, it is the result of positive exercise of discretion and normally the superior court should not disturb such finding, much less in revisional jurisdiction, unless the exercise of discretion was on wholly untenable grounds or arbitrary or perverse. But it is a different matter when the first court refuses to condone the delay. In such cases, the superior court would be free to consider the cause shown for the delay afresh and it is open to such superior court to come to its own finding even untrammelled by the conclusion of the lower court.”

9. Dr. Amit George, learned counsel appearing for the respondent has vehemently opposed the application of condonation of delay both in filing of the appeal as well as re-filing of the appeal on two overarching grounds. Firstly, that Section 5 of the Limitation Act does not have any applicability, as also, the provision of Section 13 of the Commercial Courts Act excludes the applicability of the Limitation Act. Secondly, without prejudice to the aforesaid submission, Section 5 of the Limitation Act is to be construed in a very narrow manner for the purpose of Commercial Courts Act and once the purpose is achieved, it will become evident that the present case does not make out any sufficient cause for condonation of delay.
10. Counsel in support of the present contention goes back to the history of the enactment of the Commercial Courts Act. He draws the attention of the Court on the Report No.253 of the Law Commission. The relevant

paragraph of the report of the Law Commission, which have been referred to are being reproduced below :

“2.17 If one examines the manner in which litigation is conducted in the Commercial Courts in England or in Singapore, one finds that the key difference between commercial litigation in India and these countries is not just the mere establishment of commercial courts there, but also of the procedure and manner in which commercial suits are conducted. Everything from the length of pleadings, the manner in which documents are to be submitted, and the consequences of non-compliance with the strictly enforced timelines are followed by parties and counsels. Thus, in the Indian context, much greater normative and practical changes are required in the conduct of litigation and control of dockets, in addition to legislative amendments to counter the problems plaguing commercial litigation.”

11. Dr. George further submits that the Law Commission report clearly stated that the Commercial Courts Act needed an update for the reason that the same was being adopted worldwide for speedy disposal for the purposes of the economic growth. The Commercial Courts Act was supposed to be a pilot projects to reform civil litigation, tackling the issue of delay and pendency, apart from procedural improvements. The relevant excerpts from the High Court Bill of 2009 has been earmarked below: -

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Chapter III

NEED TO UPDATE AND REFRAME THE COMMERCIAL DIVISION OF THE HIGH COURTS BILL, 2009

A. The Need for Commercial Courts in India

3.1 The concept of commercial court – a dedicated forum aimed at resolving complex commercial disputes between parties – is an idea that has merit in its own right. This can be seen from the fact that around the world, many nations have adopted commercial courts as a means to ensure speedy delivery of justice in commercial cases. A more elaborate discussion covering many countries that have set up commercial courts can be found in the 188th Report of the Commission and the same is not being repeated here for the sake of brevity. However, it would be worthwhile to briefly restate the justifications for a commercial court in India.

(i) Economic growth

3.2.1 The importance of a stable, efficient and certain dispute resolution mechanism to the growth and development of trade and commerce is well established. Quick enforcement of contracts, easy recovery of monetary claims and award of just compensation for damages suffered are absolutely critical to encourage investment and economic activity, which necessarily involves the taking of financial and enforcement risks. A stable, certain and efficient dispute resolution mechanism is therefore essential to the economic development of any nation.

[...]

3.2.3 Finally, slow or over-burdened judicial systems hamper growth by fostering an inefficient use of (time and monetary) resources and technology; increasing transaction costs such as enforcement costs or delays; and moving countries away from their best possible output. When contract and property rights are not properly enforced, firms may decide not to pursue certain activities, foregoing the opportunity to specialise and exploit economies of scale; and not allocating their

production among clients and markets in the most efficient fashion, thus keep resources unemployed.

(ii) Improving the international image of the Indian justice delivery system

As the 188th Report of the Law Commission also discussed in some detail, there is an impression among foreign investors and companies that India is a difficult place to do business, inter alia, for reasons of the slowness and inefficiency of the judicial system. This is also reflected in the World Bank's annual "Doing Business" report, which measures business regulations. This report, inter alia, looks at the ease or difficulty of enforcing contracts in a given nation. Among 189 nations surveyed in the 2014 report, India was ranked 186th in the category of "Enforcing Contracts", unchanged from its 2013 position. According to the data collected by the Bank, contract enforcement takes 1,420 days (i.e. nearly four years) and costs of enforcement aggregate to nearly 40% of the value of the claim. Since the World Bank first started the series of reports in 2004, these numbers have not changed, either in terms of number of days it takes to enforce the contract or the costs involved. The Report also finds that there has been no major reform in India in the last six years in contract enforcement.

(iii) Improving legal culture

3.4.1 The approach of the redrafted Bill as proposed in this Report will therefore be to set up Commercial Courts and Commercial Divisions within High Courts, which will function as model courts establishing new practices and norms of practice in commercial litigation that can, over time, be scaled up and extended to all civil litigation in India. The changes being suggested are not intended to be limited only to high value commercial disputes but should be extended to all disputes over a period of time after assessing the functioning of the Commercial Courts.

The Commercial Courts, apart from being ends in themselves, are also a pilot project to reform civil litigation across the country and tackle the twin issues of delay and pendency. Ideally, the Commercial Courts should be a model for the functioning of all civil courts in India and the procedure followed here could be the basis for a larger reform of the CPC. Thus, concerns that commercial courts only serve “elitist” concern will be addressed in the long run.

3.4.2 That India needs commercial courts for the effective and efficient resolution of high value commercial disputes is beyond doubt. The criticism of the 2009 Bill is aimed at the structure and functioning of the commercial courts.

3.6.2 The Model Court Report came up with the concept of a model court whose core requirements would be efficiency and justice. The five generic principles governing model courts are; (i) it should be citizen friendly in its access to information; (ii) it must be efficient in terms of time for litigants; (iii) it must be fair and just; (iv) the litigants should be reasonably certain as to when their case would come up for trial; and (v) when it would conclude. Recommendations to achieve this were made in three areas, namely process related reforms; physical and technical infrastructure improvement; and grooming of professional and accountable personnel.”

[Emphasis Supplied]

12. Dr. George extensively relying on the report of the Law Commission submits that the objective is to highlight that a need was felt for establishing Commercial Courts in India. The Law Commission had taken the following factors into account while preparing the report :

(i) Economic growth,

- (ii) Improving the international image of the Indian justice delivery system
- (iii) Improving legal culture.

13. Dr. George further submits that the purpose of setting up Model Courts is to improve the image and to ensure that the commercial justice is provided to all the litigants throughout the country, commercial or otherwise, as early as possible. Learned counsel submits that the Model Courts as per the report of the Law Commission should be citizen friendly, efficient, fair and just and the litigants should be reasonably certain as to when would their cases come up for trial and be concluded. In the backdrop of the Report learned Counsel relies on Section 13 of Commercial Courts Act, 2015 with a view to highlight that this is the only provision which is available to a litigant to assail the order passed while rejecting the objections to the award under Section 34 of the Act. He submits that Section 37 which provides for filing of an appeal, unlike Section 34, does not provide period of limitation. The period of limitation is only provided under Section 13 of the Commercial Courts Act. We deem it appropriate to reproduce Section 37 of the Act and also Section 13 of the Commercial Courts Act:

“37. Appealable orders.—

(1) An appeal shall lie from the following orders (and from no others) to the Court authorised by law to hear appeals from original decrees of the Court passing the order, namely:—

- (a) granting or refusing to grant any measure under section 9;*
- (b) setting aside or refusing to set aside an arbitral award under section 34.*

(2) An appeal shall also lie to a Court from an order granting of the arbitral tribunal.—

(a) accepting the plea referred in sub-section (2) or sub-section (3) of section 16; or

(b) granting or refusing to grant an interim measure under section 17.

(3) No second appeal shall lie from an order passed in appeal under this section, but nothing in this section shall affect or take away any right to appeal to the Supreme Court.

13. Appeals from decrees of Commercial Courts and Commercial Divisions.—*(1) Any person aggrieved by the decision of the Commercial Court or Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of judgment or order, as the case may be:*

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 (5 of 1908) as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996 (26 of 1996).

(2) Notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the provisions of this Act.”

14. Additionally, Dr. George has relied on Section 14 of the Commercial Courts Act to highlight that an appeal is to be disposed of expeditiously within a period of six months from the date of its filing, and this expeditious disposal is in sync with the aims and objectives of the Commercial Courts Act. However, in the present appeal, the time period of six month has already lapsed.

15. It is further pointed out that prior to the coming into force of Commercial Courts Act, an appeal in the form of FAO was maintainable and the period of limitation was 30 days. However, this period of 30 days has now been enlarged to 60 days by the Commercial Courts Act. It is also contended that Section 21 of the Commercial Courts Act, further makes it clear that the act has an overriding effect on the general laws. It is thus, contended that while deciding the present application, the Court must keep in mind the genesis of the Commercial Courts Act, the scheme and object of the Act and the spirit behind the Commercial Courts Act. One of the main aims and objectives was to do away with administrative red tapism.
16. Dr. George submits that the introduction of Commercial Courts Act was born out of the normative shift in the conduct of the commercial litigation in India. Counsel draws attention to the observations made by a Division Bench of this Court in the case of ***HPL (India) Limited & others Vs. QRG Enterprises and another*** reported in 2017 SCC Online Del 6955 to highlight that the Commercial Courts Act is a special act pertaining to the commercial disputes of a specified valued and lays down an independent mechanism of dispute resolution. Section 13(1) of the Commercial Courts Act provide for both; a forum for appeal and, a period of limitation. Thus, the special procedure under the Commercial Courts Act is a departure from the normal procedure envisaged under CPC, Reliance has been placed on following paras:

“5. Before we proceed further, it would be necessary to set out the relevant portion of the Statement of Objects and Reasons and the relevant provisions of the said Act and the CPC.

I. Relevant portion/provisions of the said Act:

“Statement of objects and reasons

The proposal to provide for speedy disposal of high value commercial disputes has been under consideration of the Government for quite some time. The high value commercial disputes involve complex facts and question of law. Therefore, there is a need to provide for an independent mechanism for their early resolution. Early resolution of commercial disputes shall create a positive image to the investor world about the independent and responsive Indian legal system.

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23. On going through the Statement of Objects and Reasons, it is evident that the said Act was, inter alia, enacted for the purpose of providing a methodology for speedy disposal of high value commercial disputes. The need of the hour was to provide for an independent mechanism for early resolution of commercial disputes with the objective of creating a positive image to the investor world about the independent and responsive Indian legal system.

24. It is also well settled that the right of appeal is a creation of the statute. In other words, the provision for an appeal has to be found in the statute itself. The said Act is a special Act pertaining to commercial disputes of a specified value as defined in Section 2(1) of the said Act. Therefore, the provision for an appeal would have to be located in the said Act itself. This is so particularly because Chapter IV of the said Act specifically deals with ‘Appeals’. Section 21 of the said Act clearly stipulates that save as otherwise provided, the provisions of the said Act would have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law for the time being in force other than the said Act. This clearly means that where the provisions for appeals are provided in the said Act, if there is any

other provision for appeal in any other law for the time being in force which is inconsistent with what is provided in the said Act, the provisions for appeals in the said Act would have overriding effect.

28. [...] The sum and substance of this discussion is that the provisions of Articles 116 and 117 of the Limitation Act, 1963, which provided for appeals to the High Court from any decree or order and of a subordinate court and appeals to the High Court from a decree or order passed by the original Side of that High Court to be filed within 90 days and 30 days, respectively from the date of the decree or order, have now been combined into one period of limitation and, that is, 60 days from the date of 'judgment or order', as the case may be.

29. Viewed in this context, it becomes immediately apparent that Section 13(1) prescribes a different forum of appeal and a different period of limitation thereof.

54.[...] We have already pointed out above that Section 13(1) not only provides for a forum of appeal but also a specified period of limitation. The proviso to Section 13(1) explicitly provides that an appeal shall lie from any Order or decree of a Commercial Division or a Commercial Court otherwise than in accordance with the provisions of the said Act notwithstanding anything contained in any other law for the time being in force or in a Letters Patent of a High Court. When the provisions of a statute are explicit and the intendment of the legislature is clear, there is no question of trying to resolve an imagined conflict between the provisions by employing the rule of harmonious construction.
[Emphasis Supplied]

17. It is also submitted before us that the judgment of a Division Bench of the Bombay High Court would not come to the rescue of the appellant as the Court has relied upon a decision of the Supreme Court in the case of **Commissioner Of Customs & Central Excise Vs. M/S Hongo India**

Pvt. Ltd. & another reported in **2009 (5) SCC 791**, which Dr. George submits to have been misread. The paragraphs relied upon by Dr. George are reproduced below :

“11. Now let us consider whether Section 5 of the Limitation Act is applicable in respect of a reference application filed in the High Court under Section 35-H of the unamended Act.

12. Mr Parag P. Tripathi, learned Additional Solicitor General, appearing for the appellant contended that in view of the fact that the High Court has all inherent and plenary power, is competent to consider the delay even after the prescribed period under the Act. He further contended that in the absence of specific prohibition in the Act for condoning the delay, particularly in Section 35-H in lieu of Section 29(2) of the Limitation Act, Section 5 of the Limitation Act is applicable and the High Court ought to have exercised its power by condoning the delay. He initially contended that since Section 35-H speaks about the substantial question of public importance, even the delay, if any, has to be condoned.

13. On the other hand, learned counsel appearing for the respondents supporting the stand taken by the High Court submitted that the Central Excise Act is a self-contained Act and a code by itself and in the absence of specific provision enabling the High Court to exercise its power by condoning the delay, the High Court is justified in refusing to entertain the reference application of the Excise Department filed beyond the prescribed period. He also contended that in the light of the scheme of the Act and of the fact that sufficient period i.e. 180 days, has been provided for the Commissioner as well as the other party for making reference to the High Court, the legislative intent has to be respected.

14. *Article 214 of the Constitution of India makes it clear that there shall be a High Court for each State and Article 215 states that every High Court shall be a court of record and shall have all the powers including the power to punish for contempt of itself. Though we have adverted to Section 35-H in the earlier part of our order, it is better to extract sub-section (1) which is relevant and we are concerned with in these appeals:*

“35-H. Application to High Court.—(1) The Commissioner of Central Excise or the other party may, within one hundred and eighty days of the date upon which he is served with notice of an order under Section 35-C passed before the 1st day of July, 2003 (not being an order relating, among other things, to the determination of any question having a relation to the rate of duty of excise or to the value of goods for purposes of assessment), by application in the prescribed form, accompanied, where the application is made by the other party, by a fee of two hundred rupees, apply to the High Court to direct the Appellate Tribunal to refer to the High Court any question of law arising from such order of the Tribunal.”

Except providing a period of 180 days for filing reference application to the High Court, there is no other clause for condoning the delay if reference is made beyond the said prescribed period.

15. *We have already pointed out that in the case of appeal to the Commissioner, Section 35 provides 60 days' time and in addition to the same, the Commissioner has power to condone the delay up to 30 days, if sufficient cause is shown. Likewise, Section 35-B provides 90 days' time for filing appeal to the Appellate Tribunal and sub-section (5) therein enables the Appellate Tribunal to condone the delay irrespective of the number of days, if sufficient cause is shown. Likewise, Section 35-EE which provides 90 days' time for filing revision by the Central Government and, proviso to the same enables the*

revisional authority to condone the delay for a further period of 90 days, if sufficient cause is shown, whereas in the case of appeal to the High Court under Section 35-G and reference to the High Court under Section 35-H of the Act, total period of 180 days has been provided for availing the remedy of appeal and the reference. However, there is no further clause empowering the High Court to condone the delay after the period of 180 days.

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32. As pointed out earlier, the language used in Sections 35, 35-B, 35-EE, 35-G and 35-H makes the position clear that an appeal and reference to the High Court should be made within 180 days only from the date of communication of the decision or order. In other words, the language used in other provisions makes the position clear that the legislature intended the appellate authority to entertain the appeal by condoning the delay only up to 30 days after expiry of 60 days which is the preliminary limitation period for preferring an appeal. In the absence of any clause condoning the delay by showing sufficient cause after the prescribed period, there is complete exclusion of Section 5 of the Limitation Act. The High Court was, therefore, justified in holding that there was no power to condone the delay after expiry of the prescribed period of 180 days.

33. Even otherwise, for filing an appeal to the Commissioner, and to the Appellate Tribunal as well as revision to the Central Government, the legislature has provided 60 days and 90 days respectively, on the other hand, for filing an appeal and reference to the High Court larger period of 180 days has been provided with to enable the Commissioner and the other party to avail the same. We are of the view that the legislature provided sufficient time, namely, 180 days for filing reference to the High Court which is more than the period prescribed for an appeal and revision.

34. Though, an argument was raised based on Section 29 of the Limitation Act, even assuming that Section 29(2) would be attracted, what we have to determine is whether the provisions of this section are expressly excluded in the case of reference to the High Court.

35. It was contended before us that the words “expressly excluded” would mean that there must be an express reference made in the special or local law to the specific provisions of the Limitation Act of which the operation is to be excluded. In this regard, we have to see the scheme of the special law which here in this case is the Central Excise Act. The nature of the remedy provided therein is such that the legislature intended it to be a complete code by itself which alone should govern the several matters provided by it. If, on an examination of the relevant provisions, it is clear that the provisions of the Limitation Act are necessarily excluded, then the benefits conferred therein cannot be called in aid to supplement the provisions of the Act. In our considered view, that even in a case where the special law does not exclude the provisions of Sections 4 to 24 of the Limitation Act by an express reference, it would nonetheless be open to the court to examine whether and to what extent, the nature of those provisions or the nature of the subject-matter and scheme of the special law exclude their operation. In other words, the applicability of the provisions of the Limitation Act, therefore, is to be judged not from the terms of the Limitation Act but by the provisions of the Central Excise Act relating to filing of reference application to the High Court.

36. The scheme of the Central Excise Act, 1944 supports the conclusion that the time-limit prescribed under Section 35-H(1) to make a reference to the High Court is absolute and unextendable by a court under Section 5 of the Limitation Act. It is well-settled law that it is the duty of the court to respect the legislative intent and by giving

liberal interpretation, limitation cannot be extended by invoking the provisions of Section 5 of the Limitation Act.

18. Dr. George contends that a careful reading of the aforesaid paragraphs, would show that the Apex Court was seized of a matter arising out of the Central Excise Act, 1944. The bone of contention was whether Section 5 of Limitation Act would apply to Section 35-H of the Central Excise Act and whether the delay in filing the appeal beyond 180 days could be condoned. Learned counsel contends that the Apex Court held that this period of 180 days could not be condoned. While reaching such a conclusion, the Apex Court had taken into consideration the provisions of Section 35, 35-B, 35-EE, & 35-G, in contrast to the provisions under Section 35-H, which was subject matter before them. Relying on the aforesaid judgment, Dr. George, submits that firstly the Bombay High Court has failed to correctly apply the ratio of the judgment in the case of *M/S Hongo India Pvt. Ltd.* (*supra*) and secondly the facts of this case are to be considered in the backdrop of the report of the Law Commission. The manner in which another Division Bench of this Court has highlighted the provisions of Commercial Courts Act, the aims and objects of the Commercial Courts Act and considered that the Commercial Courts Act is a Court in itself and thus, Section 13 as far as it relates to period of limitation has an implied exclusion. Another reason why the judgment of the Bombay High Court would not apply and would not come to the rescue of the appellant is for the reasons recorded in paras 11 & 30 of the judgment, rendered in the case of *Kalpesh R. Jain* (*supra*). There was sufficient cause for condonation of delay in the judgment and sufficient discussion with regard to reasons for condoning the delay was made,

whereas in the facts of the present case the appellant has failed to establish that the delay was on account of bonafide reasons.

“11. A bare perusal of this definition would mean the period of limitation prescribed for any suit, appeal or application by the Schedule and prescribed period means the period of limitation computed in accordance with the provisions of the Limitation Act, 1963. Mr. Kadam does not dispute that the present proceedings are a Appeal from the order of a learned single Judge of this Court to a Division Bench of this Court. Pertinently, he does not dispute that an appeal lies against an order of the nature passed by the learned single Judge in the proceedings styled as a suit. Further, it is pertinent to note that section 5 enables the Court to admit, after the prescribed period, any appeal or application other than under any of the provisions of Order XXI of the Code of Civil Procedure, 1908, if the appellant or the applicant satisfies the Court that he had sufficient cause for not preferring the appeal or making the application within such period. It is also not in dispute that there is a sufficient cause for the delay in preferring this appeal.

30. Similarly, in the case of Hongo India, the Hon'ble Supreme Court was concerned with an issue as to whether an appeal which had to be filed in the prescribed period and which can be entertained beyond the prescribed period only if it is filed in a further period of thirty days, whether that appeal under the statute can be entertained and decided if it is presented beyond the prescribed period and the additional period. By relying upon section 5 of the Limitation Act, 1963, the argument was that the appeal can be entertained. It is in that context the Hon'ble Supreme Court applied the principle in Hukumdev Naraian Yadav and made the observations in paragraph 35 relied upon.”

19. Dr. George has also relied upon a decision in the case of **Pawan Kumar v. State of Haryana** reported in (1998)3 SCC 309, more particularly,

para 13, wherein the Court laid down the principles in case words in a statute are referable to more than one meaning. Paras 13 & 14 are reproduced below:

“13. When words in a statute are referable to more than one meaning, the established rule of construction is found in Heydon's case [(1584) 76 ER 637 : 3 Co Rep 7a] also approved by this Court in Bengal Immunity Co. Ltd. v. State of Bihar [AIR 1955 SC 661 : (1955) 6 STC 446] AIR at p. 674. The rule is to consider four aspects while construing an Act:

(a) what was the law prior to the law which is sought to be interpreted;

(b) what was the mischief or defect for which new law is made;

(c) what is the remedy the law now provides; and

(d) what is the reason of the remedy.

14. The Court must adopt that construction which, “suppresses the mischief and advances the remedy”. ”

20. Elaborating his arguments further, while relying on para 13 of **Pawan Kumar** (*supra*) as detailed above, Dr. George submits that four aspects, which have been highlighted would squarely apply to the facts of the present case and the issue at hand i.e. “A. The 188th Report of the Law Commission” is reproduced below:

“A. The 188th Report of the Law Commission

1.2 In the year 2003, the Law Commission suo motu took up the issue of proposing the constitution of Commercial Divisions in High Courts, in view of the vast changes in the economic policies of the country post-1991; the perception that the Indian judicial system had “collapsed” due to inordinate delays; and the need to ensure the fast disposal of high value commercial disputes to provide assurance to domestic and foreign investors.

1.3 In its 188th Report titled “Proposals for Constitution of Hi-tech Fast-Track Commercial Divisions in High Courts”, the Commission examined the international practice of setting up commercial courts to deal with high value or complex commercial cases, and the need for such commercial courts in India. Its aim was to give a clear assurance to investors that high value commercial suits would directly go before the Commercial Division to be constituted in all High Courts, which would follow fast track procedures similar to those recommended in the 176th Report on “Arbitration and Conciliation (Amendment) Bill, 2002”. These Commercial Divisions would also be equipped with high-tech video conferencing facilities along the lines used in commercial courts abroad.

1.4 The Law Commission carried out an in-depth study of the commercial courts in the United Kingdom (hereinafter “UK”); the United States of America, specifically the States of New York and Maryland; Singapore; Ireland; France; Kenya and nine other countries to examine the procedures followed and the kinds of cases handled by the commercial courts in such countries.

1.5 Finding that there was indeed a necessity for such courts in India, the Commission recommended setting up a Commercial Division in each of the High Courts of India. The purpose of the Commercial Division would be to expedite commercial cases of high pecuniary value. Briefly, the salient features of the Commercial Division recommended by the Law Commission in its 188th Report were as follows:

- a) Each Commercial Division was to be comprised of a Bench of two judges, and there could be more than one such Bench if needed. In fact, the Commercial Division would have as many Benches as may be required to ensure the expeditious disposal of commercial cases

- b) The Commercial Division of a High Court would have jurisdiction over “commercial disputes” which were defined in the Report by adopting and modifying the definition of “Commercial Cause” as contained in Rule 1 of Part D of Chapter III (Part V) of the Delhi High Court (Original Side) Rules, 1967.*
- c) The pecuniary jurisdiction of the Commercial Division was to be Rupees One Crore, or a higher figure as determined by the High Court in question, although not in excess of Rupees Five Crore.*
- d) A “fast track procedure” was prescribed for the disposal of suits in the Commercial Division, providing timelines for the filing of pleadings; recording of evidence; and delivery of judgment by the Bench.*
- e) The judges of the Commercial Division would conduct “case management conferences” with the lawyers for the purposes of filing written submissions and completion of evidence, which would form a part of the procedure adopted by the Commercial Division.*
- f) A statutory appeal from the orders and judgments of the Commercial Division could be preferred to the Supreme Court of India.”*

21. As far as issue-A, i.e. “A. The 188th Report of the Law Commission”, is concerned, the Law Commission had taken into consideration the law prior to the coming into force of the Commercial Courts, highlighted the mischief or defect behind making of the new law. The Law Commission and the new law also suggest the remedy of law and the reasons of the remedy, which can be summarized by taking into consideration the aims and objectives of the Commercial Courts Act. Dr. George further submits that it is no longer res-integra that the specific law would override the general law.

The provisions of the Commercial Courts Act should, therefore, be given precedence over the provisions of the Limitation Act. Reliance is placed on para 18 in the case of ***Suresh Nanda v. CBI*** reported at (2008) 3 SCC 674, which we reproduce below :

“18. In our opinion, even the court cannot impound a passport. Though, no doubt, Section 104 CrPC states that the court may, if it thinks fit, impound any document or thing produced before it, in our opinion, this provision will only enable the court to impound any document or thing other than a passport. This is because impounding of a “passport” is provided for in Section 10(3) of the Passports Act. The Passports Act is a special law while CrPC is a general law. It is well settled that the special law prevails over the general law vide *G.P. Singh's Principles of Statutory Interpretation* (9th Edn., p. 133). This principle is expressed in the maxim *generalialia specialibus non derogant*. Hence, impounding of a passport cannot be done by the court under Section 104 CrPC though it can impound any other document or thing.”

22. On the merits of the matter, it is strenuously urged before us that appellant has failed to establish any sufficient cause for delay in filing the present appeal. It is contended that reading of the application would show that the same is casual in nature and bereft of any grounds of condonation of delay including material particulars or timelines. It is contended that the delay is unexplained. There is nothing on record to show that the department acted in a diligent manner. It is further contended that at every stage, the department acted in a careless manner showing no sense of urgency. The files were in fact pushed from one desk to another showing scant respect for the law of Limitation as

though the Limitation Act did not exist or that delay would be condoned mechanically as a matter of right. Reliance is placed on *Postmaster General v. Living Media India Ltd.*, reported in (2012) 3 SCC 563, more particularly paras 28, 29 & 30, which we reproduce below:

“28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few.

30. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge

delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

23. We have heard the learned counsel for the parties, considered their rival submissions, material placed on record and has also given our thoughtful consideration to the matter.
24. The first issue, which has been raised by Dr. George with regard to the applicability of Limitation Act in the commercial appeals has been dealt by the Apex Court in detail in the case of ***Consolidated Engineering Enterprises vs. The Principal Secretary Irrigation Department & Ors.*** reported at (2008) 7 SCC 169. It has been held that Section 9 of the Act deals with interim measures and the question of limitation does not arise in it. Section 34(3) of the Act provides for three months of limitation and the proviso further extends it to another 30 days. Section 37 of the Act does not prescribe any limitation for filing such appeals. If the Limitation Act becomes inapplicable to the Act, there will be no limitation for filing. If the Limitation Act is applicable to the Act, then the same shall be governed by Article 116 of the Schedule to the Limitation Act, which prescribes the period of 90 days for appeals to High Court and period of 30 days for appeals to any other court under the provisions of Code of Civil Procedure, 1908 (“CPC”). It is the settled principle of law that the words of Article 116 such as ‘appeals under the CPC, not only refers to appeals under CPC but also to the appeals, where the procedure of filing such appeals and powers of the court to deal with such appeals are also governed by CPC. The court further held that Limitation Act would be applicable to the Arbitration Act until otherwise expressly barred by some provisions.

25. Commercial Courts Act is a special law introduced to enhance the efficiency of the Indian Judicial System. The intention and the urgency behind putting the Commercial Courts Act into force was to streamline and stimulate the growth of business, which can be gauged from the fact that the parliament went through the ordinance route to ensure that there is no delay in initiating the process for setting up 'Commercial Courts' for adjudication of 'Commercial Disputes'. An attempt has been made to make the proceedings efficient in stipulated time by enforcing strict timelines. In order to ensure that the parties must not misuse the process of law, stringent rules have been laid and cost imposition has been introduced at places where the Court finds that the claim put forward by any of the party is frivolous and vexatious.
26. This Court has been of a consistent view as has also been held in the case of *M/s Lifelong Mediatech Pvt. Ltd vs. M/s United India Insurance Co. Ltd.* reported in 2018 SCC OnLine Del 9559, that the aim and objective of the Commercial Courts Act is to provide speedy disposal of commercial disputes, so as to create a positive image and to improve the international image of the Indian Justice Delivery System. The Apex Court has though, consistently spoke about the liberal approach to Section 5 of the Limitation Act, but the essence of 'sufficient cause' has always been given the importance, while deciding the applications on delay.
27. The Supreme Court in catena of judgments has emphasized the importance of the principle of limitation, by repeatedly holding that condoning the delay is a matter of discretion which can only be available if the person does not sleep over his right and also is able to

show sufficient cause or explanation for such delay, which was missing in the present case scenario. In the case of ***Prabhakar vs. Joint Director Sericulture Department and Ors.*** reported in AIR 2016 SC 2984, the Apex Court has observed that :

“36. It is now a well recognised principle of jurisprudence that a right not exercised for a long time is non-existent. Even when there is no limitation period prescribed by any statute relating to certain proceedings, in such cases Courts have coined the doctrine of laches and delays as well as doctrine of acquiescence and non-suited the litigants who approached the Court belatedly without any justifiable explanation for bringing the action after unreasonable delay. Doctrine of laches is in fact an application of maxim of equity "delay defeats equities".”

28. It is the case of the appellant that he had no knowledge about the impugned order and acquired the knowledge about the same in the first instance when the impugned order was uploaded on the web. Thereafter, certain rounds in the government department also led to the delay. We find these grounds baseless and vague and the same fail to show any valid sufficient cause for the delay. In ***Basawaraj and Anr vs. Special Land Acquisition Officer***, reported at (2013) 14 SCC 81, the Supreme Court in paras 9 to 15 held that while dealing with an application seeking condonation of delay the Court must ensure that there is a sufficient cause, while condoning the delay. Relevant paras are reproduced below:

“9. Sufficient cause is the cause for which Defendant could not be blamed for his absence. The meaning of the word "sufficient" is "adequate" or "enough", inasmuch as may be necessary to answer the purpose intended. Therefore, the word "sufficient" embraces no more than

that which provides a platitude, which when the act done suffices to accomplish the purpose intended in the facts and circumstances existing in a case, duly examined from the view point of a reasonable standard of a cautious man. In this context, "sufficient cause" means that the party should not have acted in a negligent manner or there was a want of bona fide on its part in view of the facts and circumstances of a case or it cannot be alleged that the party has "not acted diligently" or "remained inactive". However, the facts and circumstances of each case must afford sufficient ground to enable the Court concerned to exercise discretion for the reason that whenever the Court exercises discretion, it has to be exercised judiciously. The applicant must satisfy the Court that he was prevented by any "sufficient cause" from prosecuting his case, and unless a satisfactory explanation is furnished, the Court should not allow the application for condonation of delay. The court has to examine whether the mistake is bona fide or was merely a device to cover an ulterior purpose. (See: Manindra Land and Building Corporation Ltd. v. Bhootnath Banerjee and Ors., AIR 1964 SC 1336; Lala Matadin v. A. Narayanan, AIR 1970 SC 1953; Parimal v. Veena @ Bharti, AIR 2011 SC 1150; and Maniben Devraj Shah v. Municipal Corporation of Brihan Mumbai, AIR 2012 SC 1629.)

10. In Arjun Singh v. Mohindra Kumar MANU/SC/0013/1963 : AIR 1964 SC 993 this Court explained the difference between a "good cause" and a "sufficient cause" and observed that every "sufficient cause" is a good cause and vice versa. However, if any difference exists it can only be that the requirement of good cause is complied with on a lesser degree of proof than that of "sufficient cause".

11. The expression "sufficient cause" should be given a liberal interpretation to ensure that substantial justice is done, but only so long as negligence, inaction or lack of

bona fides cannot be imputed to the party concerned, whether or not sufficient cause has been furnished, can be decided on the facts of a particular case and no straitjacket formula is possible. (Vide: Madanlal v. Shyamlal, AIR 2002 SC 100; and Ram Nath Sao @ Ram Nath Sahu and Ors. v. Gobardhan Sao and Ors., AIR 2002 SC 1201.)

12. It is a settled legal proposition that law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes. The Court has no power to extend the period of limitation on equitable grounds. "A result flowing from a statutory provision is never an evil. A Court has no power to ignore that provision to relieve what it considers a distress resulting from its operation." The statutory provision may cause hardship or inconvenience to a particular party but the Court has no choice but to enforce it giving full effect to the same. The legal maxim "dura lex sed lex" which means "the law is hard but it is the law", stands attracted in such a situation. It has consistently been held that, "inconvenience is not" a decisive factor to be considered while interpreting a statute.

13. The Statute of Limitation is founded on public policy, its aim being to secure peace in the community, to suppress fraud and perjury, to quicken diligence and to prevent oppression. It seeks to bury all acts of the past which have not been agitated unexplainably and have from lapse of time become stale. According to Halsbury's Laws of England, Vol. 24, p. 181:

"605. Policy of Limitation Acts. The courts have expressed at least three differing reasons supporting the existence of statutes of limitations namely, (1) that long dormant claims have more of cruelty than justice in them, (2) that a Defendant might have lost the evidence to disprove a stale

claim, and (3) that persons with good causes of actions should pursue them with reasonable diligence.”

An unlimited limitation would lead to a sense of insecurity and uncertainty, and therefore, limitation prevents disturbance or deprivation of what may have been acquired in equity and justice by long enjoyment or what may have been lost by a party's own inaction, negligence' or laches. (See: Popat and Kotecha Property v. State Bank of India Staff Assn., (2005) 7 SCC 510; Rajendar Singh and Ors. v. Santa Singh and Ors., AIR 1973 SC 2537; and Pundlik Jalam Patil v. Executive Engineer, Jalgaon Medium Project, (2008) 17 SCC 448).

14. In P. Ramachandra Rao v. State of Karnataka, AIR 2002 SC 1856, this Court held that judicially engrafting principles of limitation amounts to legislating and would fly in the face of law laid down by the Constitution Bench in A.R. Antulay v. R.S. Nayak, AIR 1992 SC 1701

15. The law on the issue can be summarised to the effect that where a case has been presented in the court beyond limitation, the applicant has to explain the court as to what was the "sufficient cause" which means an adequate and enough reason which prevented him to approach the court within limitation. In case a party is found to be negligent, or for want of bonafide on his part in the facts and circumstances of the case, or found to have not acted diligently or remained inactive, there cannot be a justified ground to condone the delay. No court could be justified in condoning such an inordinate delay by imposing any condition whatsoever. The application is to be decided only within the parameters laid down by this Court in regard to the condonation of delay. In case there was no sufficient cause to prevent a litigant to approach the court on time condoning the delay without any justification, putting any condition whatsoever, amounts

to passing an order in violation of the statutory provisions and it tantamounts to showing utter disregard to the legislature.”

29. Moreover, the Apex Court in the case of ***Brijesh Kumar & Ors. Vs. State of Haryana & Ors.*** reported at (2014) 11 SCC 351 held that the appellant could not take the benefit of approaching the Court at a belated stage without giving any satisfactory reasons. Paragraphs 6- 8 have been reproduced below to emphasize the time period for limitation: -

“6. The issues of limitation, delay and laches as well as condonation of such delay are being examined and explained everyday by the courts. The law of limitation is enshrined in the legal maxim interest reipublicae ut sit finis litium (it is for the general welfare that a period be put to litigation). Rules of limitation are not meant to destroy the rights of the parties, rather the idea is that every legal remedy must be kept alive for a legislatively fixed period of time.

7. The Privy Council in General Accident Fire and Life Assurance Corpn. Ltd. v. Janmahomed Abdul Rahim [(1939-40) 67 IA 416 : (1941) 53 LW 212 : AIR 1941 PC 6] , relied upon the writings of Mr Mitra in Tagore Law Lectures, 1932 wherein it has been said that: (IA p. 426)

A law of limitation and prescription may appear to operate harshly and unjustly in a particular case, but if the law provides for a limitation, it is to be enforced even at the risk of hardship to a particular party as the Judge cannot, on equitable grounds, enlarge the time allowed by the law, postpone its operation, or introduce exceptions not recognised by law.

8. In P.K. Ramachandran v. State of Kerala [(1997) 7 SCC 556 : AIR 1998 SC 2276] , the Apex Court while considering a case of condonation of delay of 565 days, wherein no explanation

much less a reasonable or satisfactory explanation for condonation of delay had been given, held as under: (SCC p. 558, para 6)

“6. Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the courts have no power to extend the period of limitation on equitable grounds.”

30. In view of the above discussion, we find no cogent grounds to condone the delay in the present case. According the present appeal and CM APPLs 3178/2018 and 2180/2018 stand dismissed.

G.S.SISTANI, J.

SANGITA DHINGRA SEHGAL, J.

OCTOBER 15th, 2019/ck//