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

+ W.P.(C) 1632/2020

BHARAT GLASS TUBE LTD

..... Petitioner

Through

Mr.Suryakant Singla and Ms.Rimjhim
Naudiyal, Advs.

versus

UNION OF INDIA & ANR

..... Respondents

Through

Mr.Ajay Digpaul, CGSC and
Mr.Soumava Karmakar, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

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19.02.2020

1. This petition has been filed challenging the order dated 03.01.2020 passed by the learned Appellate Tribunal, Prevention of Money Laundering Act, New Delhi dismissing the application of the petitioner seeking restoration of its appeal that has been dismissed in default by the learned Tribunal by an order dated 19.08.2015.

2. The learned Appellate Tribunal while dismissing the application has *inter-alia* observed as under:

“21. I have examined the application for restoration of appeal, reply and rejoinder thereto and heard the oral submissions made by both the parties. The application for restoration of appeal has no merit on the grounds discussed above and summarized below.

(i) The application has not been filed by the appellant nor any Affidavit in support of the application filed by the applicant, the erstwhile advocate of the appellant.

(ii) The application for restoration of appeal has been

filed after a period of 1350 days.

(iii) The application for restoration of appeal has been filed without any application for condonation of inordinate, delay in filing restoration application.

(iv) There is no prayer in the application for restoration of appeal to condone the inordinate delay of 1350 days.

(v) The grounds of illness of parents of the applicant has not been supported with any documents even though it was undertaken by the applicant that the relevant records shall be produced at the time of arguments (Para 6 of the application).

(vi) No sufficient reasons have been explained by the applicant except stating about her father's illness & death in 2017 and illness of her mother subsequent to the death of father. There is no proper explanation for 1350 days delay in filing the application except the above.

(vii) Even the other two counsels engaged by the appellant did not appear continuously for three dates.

(viii) The appeal was then a part-heard matter. The Full Bench of this Tribunal, in the interest of justice, did not pass any adverse order and thus gave proper opportunity to the appellant to hear the appeal on merit.

(ix) Before the conclusion of argument the matter has been placed before Division Bench from Full Bench. Prior to the date of passing of the order dated 19.08.2015, the then Hon'ble Chairperson Justice Anil Kumar tenure was over in the month of July, 2015.

(x) There is an unexplained inordinate delay of 1350 days that attracted the doctrine of prejudice in favour of the respondent.

(xi) Even the liberal construction to the extent possible is considered then also the application for restoration of appeal does not merit consideration as neither there is any application for condonation of delay nor any prayer for condoning the delay in the main application nor sufficient reasons have been given to condone the inordinate delay.

(xii) The applicant was not the only advocate engaged in the appeal. There are two other advocates who not only signed the Vakalatnama but also personally present for the appellant on different dates. So, the ground of the appellant that she could not appear on the date 19.08.2015 and could not track the appeal is not accepted.

(xiii) There is nothing on record that the appellant had made any effort to know the status of the appeal by employing a person of the company.

(xiv) The respondent has acquired the benefit and valuable rights due to dismissal of the appeal almost four years back and therefore, prejudice would be caused if the appeal is restored to file.

3. The learned counsel for the petitioner submits that the delay in filing of the application seeking restoration of the appeal was sufficiently explained by the petitioner in the application. He submits that the delay has occurred as the counsel for the petitioner lost track of the appeal due to her father's ailment, who in fact, later expired in January, 2017 after prolonged illness. Thereafter, counsel's mother got seriously ill and was hospitalised on several occasions. It was only in April, 2019 that the counsel inspected the file and found that the same had been dismissed in default on 19.08.2015 and thereafter, immediately moved a restoration application on 02.05.2019. Relying upon the judgment of the Supreme Court in ***Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy and Ors.***, (2013) 12 SCC 649, he submits that a liberal, pragmatic, justice-oriented, non-pedantic approach is to be adopted by the Court while determining 'sufficient cause' for the delay. He further submits that one of the grounds given by the learned Appellate Tribunal for dismissing the application is that

the petitioner has not filed the affidavit of the erstwhile counsel. He submits that this was factually incorrect as the affidavit of the counsel has been filed.

4. I have considered the submissions made by the learned counsel for the petitioner, however, find no merit in the same. As noted hereinabove, the appeal of the petitioner was dismissed in default on 19.08.2015. Even if the averments made in the application seeking restoration of the appeal are to be believed, there is absolutely no explanation as to what steps, if any, the petitioner itself took for finding out the status of the appeal for a period of more than four years. The petitioner cannot put the entire blame on its counsel and seek restoration only on personal reasons of the counsel. I find absolutely no justification worthy of acceptance being given in the application. The application has rightly been rejected by the learned Appellate Tribunal.

5. In view of the above, I find no merits in the present petition and the same is dismissed. There shall be no order as to cost.

NAVIN CHAWLA, J

FEBRUARY 19, 2020/Arya