

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**  
**CIVIL APPELLATE JURISDICTION**  
**CIVIL APPLICATION NO. 1647 OF 2016**  
**IN**  
**SECOND APPEAL ST NO.2710 OF 2016**

M/s.Dolphin Impression Pvt.Ltd (thru .. Applicant  
Director Shri Hariharan

Versus

Sab Miller India Ltd, Unit .. Respondent  
M/s.Haryana Breweries (Erstwhile  
Unit of M/s.Skol Breweries Ltd (thru  
Dir)

...

Mr.Satyajeet P. Dighe for the applicant.

**CORAM: BHARATI DANGRE, J.**  
**DATED : 16<sup>th</sup> MARCH, 2022**

**P.C:-**

1           On respondent being served on the application for  
condonation of delay, and when the application is listed today, no  
one represent them.

2           I have heard learned counsel for the  
applicant/appellant, who seek condonation of delay of 25 days in  
filing of Second Appeal.

The Application in paragraph no.3 justify the delay and on perusal of the paragraph, I deem it expedient to accept the explanation offered and since it is *bonafide*, it justify the delay to be condoned.

Civil Application No. 1647/2016 is allowed in terms of prayer clause (A).

3 Registry is directed to register the Second Appeal.

4 Heard the learned counsel for the appellant.

Appeal is admitted on the following substantial questions of law

“(c) Whether the Judgment and Decree order of the Appellate Court is perverse on point of limitation in as much as the Appellate Court has not referred to provisions of section 4 of the Interest on Delayed payments to Small Scale and Ancillary Industrial Undertaking Act, 1993. It is submitted that the judgment of the Appellate Court does not take into consideration provisions of section 4 which contains *Non Obstante* clause which specifically states that notwithstanding anything contained in any agreement between buyer and supplier or in any law for the time being in force. It is therefore submitted that the Act of 1993 overrides every other Act including the Law of Limitation.

(d) Whether the judgment and other of the Appellate Court is liable to be set aside on the ground of being perverse as the same is rendered without considering entire facts of the case and also the law applicable to the case i.e. the Act of 1993 which operates mandatorily.”

5            Issue notice to the respondents, making it returnable after eight weeks. Notice shall indicate, subject to compliance of appropriate paper book/compilation of documents, the Appeal shall be taken up for hearing by fixing a returnable date.

**( SMT. BHARATI DANGRE, J.)**