

Arjun

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 1944 OF 2016

IN

FIRST APPEAL (ST) NO. 3392 OF 2016

Food Corporation of India ...Applicant

Versus

Mantralaya Central Consumers Co-operative ...Respondent
Wholesale & Retail Stores Ltd.

None for the Applicant.
None for the Respondent.

CORAM Madhav J. Jamdar, J.

DATED: 21st April, 2022

PC:-

1. None appears for the Applicant and for the Respondent.
2. This Civil Application is filed by the Applicant seeking condonation of delay of 244 days in filing the Appeal. The First Appeal is filed challenging the judgment and decree dated 23rd April, 2015 passed by the Learned Judge, City Civil Court, Greater Mumbai in S. C. Suit No. 9680 of 1990. The Appeal has been filed on 3rd February, 2016. The Applicant has set out the reasons in the

Civil Application. The main reason given is that the Advocate appearing for the Applicant in the Trial Court had not informed the Applicant about the dismissal of the Suit filed by the Applicant by the impugned judgment and decree.

3. It is therefore stated that, as soon as the Applicant came to know about the dismissal of the Suit, the Applicant approached another Advocate to prefer the Appeal and therefore, there is delay in lodging the Appeal.

4. The sole Respondent has been served. Thereafter, this Civil Application came up before this Court on 18th September, 2021 when the Applicant's were represented through their Advocate, however, none appeared for the Sole Respondent. Therefore, to give opportunity to the Sole Respondent this Court adjourned the matter and directed Applicant to re-serve the Respondent. As per the office noting dated 27th January, 2022 the Applicant was served and affidavit of service was filed.

5. Today when the matter was called out none appears for the Respondent. Although the Respondent is served no affidavit-in-

reply is filed, therefore, the contentions raised in Civil Application have remained uncontroverted.

6. In the facts and circumstances of this case, the Civil Application is allowed in terms of prayer clause (a) thereby condoning the delay in filing the First Appeal.

(Madhav J. Jamdar, J.)