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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
APPEAL NO. 451 OF 2019
IN
COMPANY APPLICATION NO. 136 OF 2018
IN
COMPANY PETITION NO. 365 OF 2012

SICOM Ltd ...Appellant
Versus
The Official Liquidator, High Court Bombay, of ...Respondents
Max Energy Pvt Ltd (In Liquidation) & Anr

Mr M Bhise, with Amit Bhawe, i/b Jurisperitus, for the Appellant.
Mr Shatrughan Chauhan, Deputy Official Liquidator, for Official Liquidator.

CORAM G.S. Patel &
Madhav J. Jamdar, JJ.
DATED: 6th July 2022

PC:-

1. The Appeal is directed against an order of 6th June 2019. The Applicant, not a party to the original Company Petition, is a Government undertaking, SICOM Limited. It filed a Company Application asking that a delay of 383 days be condoned and then sought a recall or modification of an order of 17th October 2015 in Company Application No. 181 of 2015 in regard to, and limited to,

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the directions in paragraph 6 of that order. Then there was a prayer to recall a later order of 12th February 2016 made on an Official Liquidator's Report No. 791 of 2015.

2. By the impugned order, the learned Single Judge held that there was no explanation for the delay of 383 days. He found the explanation to be unsatisfactory.

3. There are some reasons given for SICOM's inactivity in paragraphs 6, 7 and 8 of the Affidavit in Support of the Company Application at pages 24 to 28. We do not mean to suggest that Government or Government companies should be granted endless license or that all delays on their part must be excused for the asking. But we do believe that the Court should have allowed SICOM to place its case because it was seeking to protect its rights in immovable property. In the paragraphs we have noted, SICOM it had set out why it was earlier led to believe that its presence in the litigation was not immediately necessary, and that its interests were being protected by another public sector undertaking. It was when SICOM found that this was not so, and, specifically, that its leasehold rights were sought to be affected, that it moved court.

4. This is possibly a justification for at least a substantial part of the delay. We believe it is well settled that in condoning the delay the approach of a Court should not be overly rigid. The benefit of doubt must go to the person seeking that the delay be condoned.

5. We will, therefore, set aside the order of 6th June 2019, condone the delay and restore the Company Application No. 136 of 2018 to file for a consideration of the remaining prayers.

6. The Appeal is disposed of in these terms.

(Madhav J. Jamdar, J)

(G. S. Patel, J)