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

% Judgment delivered on: 23.05.2022

+ MISC. APPEAL(PMLA) 4/2022 & CRL.M.A. 1413/2017

DIRECTORATE OF ENFORCEMENT Appellant

versus

O P NAHARRespondent

Advocates who appeared in this case:

For the Petitioner: Mr. Anupam S. Sharma, Special Counsel
with Mr. Prakarsh Airan and Ms. Harpreet
Kalsi, Advocates

For the Respondent: Respondent-in-person

CORAM:

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Appellant impugns the judgment and order dated 21.10.2016 whereby the application of the appellant seeking condonation of delay of 204 days in filing the appeal challenging order dated 11.08.2014 was dismissed and consequently the appeal was also dismissed having been filed beyond the period prescribed.

2. Appellant had filed the subject appeal before the Tribunal impugning order dated 11.08.2014 passed by the Adjudicating Authority, PMLA, with a delay of 204 days. The Tribunal considered



the break-up of the reasons given for the delay and held that delay had not been properly explained and as such declined to condone the delay.

3. In appeal, appellant has given a detailed explanation of the steps taken and the reasons which led to the delay. Perusal of the same shows that the file had been sent to the Head Office for consideration with regard to filing of an appeal. Once the permission was granted by Directorate of Enforcement, documents were sent to the counsel for drafting the appeal. However, he expressed his inability to draft the appeal for personal reasons and thereafter, another counsel was appointed and documents were sent to him for drafting the appeal. The draft of the appeal was received. Since the appeal was to be filed along with the statutory deposit of fee, request was sent to the Accounts Department for sanction and preparation of the pay order for deposit along with the appeal. Subsequently, the appeal was filed with a delay of 204 days.

4. Respondent, who appears in person, submits that there is no explanation for condonation of delay and has relied on the decision of the Supreme Court in *Union of India and Ors. vs. Tata Yodogawa Ltd. And Anr.*, (2015) 9 SCC 102 as also the decision in *Pundlik Jalam Patil (Dead) by LRs. vs. Executive Engineer, Jalgaon Medium Project and Anr.*, (2008), 17 SCC 448.

5. We have perused the record of the case and are satisfied that there is sufficient explanation for not filing the appeal within the prescribed period. It is also informed by learned counsel for the Appellant that RC in the CBI Court and proceedings before the



Enforcement Directorate involving the same transactions are pending.

6. We are unable to accept the contention of the Respondent and finds that the judgments referred are not applicable to the facts of the present case.

7. In *Tata Yodogawa Ltd. (supra)*, the Supreme Court had considered the application seeking condonation of delay wherein it was contended by the Appellants therein that the “legal problem in filing the special leave petitions arose” and the Supreme Court despite opportunities being given found that the Appellant had failed to explain as to what was the legal problem which had caused the delay.

8. Judgment in the case of *Pundlik Jalam Patil (supra)* is also not applicable to the facts of the present case for the reason that in that case, the Supreme Court had observed that the Appellant was taking a false plea to overcome the plea of limitation.

9. In any event, question as to whether the delay has been explained or not is dependent on the peculiar facts of each case. Supreme Court in the above referred case has also not laid down as a proposition of law that delay in all cases cannot be condoned. The Court has to examine, in facts and circumstances of each case, as to whether delay has been sufficiently explained or not. Further, it is noticed that in that case the delay sought to be condoned was of 1724 days.

10. In view of the facts of the case, as also the explanation rendered for the delay, we are of the opinion that Appellant has sufficiently explained the delay for not filing the appeal within the prescribed period. Consequently, the appeal is allowed.



11. Application seeking condonation of delay in filing the appeal before the Tribunal is also allowed. Appeal is restored to its original number on the file of the Tribunal.

12. In view of the facts and circumstances of the case, Tribunal is directed to expeditiously consider and dispose of the appeal in accordance with law.

13. Appeal and the pending application are disposed of, in the above terms.

SANJEEV SACHDEVA, J

TUSHAR RAO GEDELA, J

MAY 23, 2022

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