

Jose

IN THE HIGH COURT OF BOMBAY AT GOA

**MISC. CIVIL APPLICATION NO.278 OF 2022
IN
TAX APPEAL NO.1481 OF 2022 (F)**

ITO INTERNATIONAL
TAXATION WARD 1

... Applicant

Versus

IQBAL ISMAIL VIRANI

... Respondent

Ms Susan Linhares, Advocate *for the Applicant.*

Mr Jitendra Supekar with Mr J. Jain, Advocates *for the Respondent.*

**CORAM: M.S. SONAK &
BHARAT P. DESHPANDE, JJ.**

DATED: 23rd January, 2023

P.C.:

1. Heard Ms Linhares for the Applicant. Mr Jain appears along with Mr Supekar for the Respondent.
2. This is an application seeking condonation of delay of 360 days in instituting this appeal.
3. This appeal questions the Tribunal's order dated 12.03.2021. This order was initially challenged by the Applicant by instituting an appeal before the Karnataka High Court. Ms Linhares produced before us the memo of appeal in which it is stated that the Tribunal's order was communicated on 23.08.2021, and therefore, the appeal was instituted

before the Karnataka High Court within the prescribed period of 120 days.

4. The Hon'ble Karnataka High Court, by its order dated 04.03.2022, allowed the Applicant to withdraw the appeal because it was realized that the appeal should have been filed before this Court. After that, the Applicant explained why the appeal could not be filed up to 07.07.2022. Although the Applicant could have been more diligent as was pointed out by Mr Jain, we do not think that this delay was for reasons that were not bonafide. The explanations in the application would constitute sufficient cause, particularly when viewed from the context of confusion about the appropriate forum before which the appeal should have been filed in the first place. The summer vacations of 2022 also intervened during which the appeal could not have been filed because there was no case of urgency as such.

5. Therefore, upon cumulative consideration of the above facts and circumstances, we condone the delay in instituting the appeal.

6. Misc. Civil Application No.278/2022 is accordingly disposed of.

BHARAT P. DESHPANDE, J.

M.S. SONAK, J.

JOSE
FRANCISCO
DSOUZA

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