

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CIVIL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 2588 OF 2021  
IN  
ARBITRATION APPEAL (L) NO. 17088 OF 2021**

The Municipal Corporation of City, Thane...Applicant/Appellant  
Vs.

Bharat Udyog Ltd. (Erstwhile  
M/s. Jaihind Contractors Pvt. Ltd.) ...Respondent

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Mr. N. R. Bubna, for the Applicant / Appellant.  
Mr. Gautham Ankhad, Mr. Abhishek Adke, Ms. Vibha Joshi, for  
the Respondent.

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**CORAM : MANISH PITALE, J.  
DATE : 3 JANUARY 2023**

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**P.C.**

. This is an application seeking condonation of delay in filing  
an appeal under Section 37 of the Arbitration and Conciliation  
Act, 1996.

2. It is a matter of record that the respondent herein has also  
filed an appeal against the impugned order of the Court of  
Principal District Judge, Thane and that the appeal filed by the  
respondent is already admitted.

3. The Office note states that number of days of delay in filing the appeal is far more than the delay of 62 days.

4. The learned counsel appearing for the applicant / appellant submitted that the days of delay have been calculated on the basis that from 15/3/2020 onwards, the orders passed by the Supreme Court in *Suo Moto Writ Petition (Civil) No(s).3/2020*, were in operation, whereby the period of limitation stood extended due to the Pandemic and the consequent Lockdown imposed in the country.

5. This Court has considered the contents of the present application. It is specifically stated that in view of the Pandemic and the restrictions imposed in that regard, the office of the appellant, which is a Municipal Corporation, was working with minimal staff and that therefore, appeal could be eventually filed only on 9/9/2021, which was also during the impact of the Pandemic and the orders passed by the Supreme Court in that regard.

6. The learned counsel for the applicant / appellant has referred to the judgment of the Supreme Court in the case of *Government of Maharashtra (Water Resources Department) represented by Executive Engineer Vs. Borse Brothers Engineers and Contractors Private Limited* <sup>1</sup> which lays down the law for

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<sup>1</sup>(2021) 6 SCC 460

considering such application seeking condonation of delay in filing the application under Section 37 of the said Act. Reliance is also placed on paragraph 63 of the said judgment, wherein it is laid down that the delay beyond 60 days in the case of appeal filed before the Commercial Court can be condoned only if the appropriate explanation is tendered for the number of days of delay.

7. Having considered the facts and circumstances of the present case and the explanation given in the application, this Court is convinced that sufficient cause is made out for condoning the delay in filing the appeal. Accordingly, the application is allowed and delay is condoned.

8. Office is directed to register the appeal and list it alongwith Arbitration Appeal No.15/2021 on 15/2/2023.

**MANISH PITALE, J.**