

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO.1 OF 2022
IN
FEMA APPEAL (L) NO.30938 OF 2018**

Yezdi Khambatta (Non Executive Ex-Director)
Sashak Noble Metals Limited ..Applicant/Appellant
V/s.
Special Director of Enforcement ...Respondent

Mr. Manish Bohra i/b A. S. Khan & Associates for Applicant/Appellant.
Mr. H. S. Venegavkar a/w Mr. Aayush Kedia for Respondent

**CORAM : K. R. SHRIRAM &
NEELA GOKHALE, JJ.
DATED : 1st NOVEMBER 2023**

PC. :

1 On 18th October 2023, the following order came to be passed.

"1. The application is to condone the delay in filing the appeal. The delay sought to be condoned is 1070 days.

2. Section 35 of the Foreign Exchange Management Act, 1999 reads as under:

"35. Any person aggrieved by any decision or order of the Appellate Tribunal may file an appeal to the High Court within sixty days from the date of communication of the decision or order of the Appellate Tribunal to him on any question of law arising out of such order:

Provided that the High Court may, if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal within the said period, allow it to be filed within a further period not exceeding sixty days.

3. When this was brought to the notice of Mr. Bohra, he stated that other co-directors of Applicant had also filed appeal and had filed Interim Application for condonation of delay and the delay in those cases was about 300 days. Mr. Bohra stated that delay in these appeals has been condoned by an order dated 16th June 2017.

4. Mr. Venegavkar states that even in those cases, the delay could not

have been condoned because time limit prescribed is 60 days plus 60 days. Mr. Venegavkar, therefore, requests for one week time to file affidavit in reply to this Interim Application and further states that he will consider whether to take out a review petition to review the order passed on 16th June 2017 in the other Interim Applications.

5. Stand over to 1st November 2023.”

2 Mr. Bohra states that due to inadvertence he made an incorrect statement to the court as recorded in paragraph 3 of the order dated 18th October 2023. There has been no such condonation as mentioned therein.

3 Since Section 35 of the Foreign Exchange Management Act, 1999 is very clear that the High Court may, if it is satisfied that appellant was prevented by sufficient cause from filing the appeal within the period of 60 days, from the date of communication of the decision or order of the Appellate Tribunal allow it to be filed within a further period not exceeding sixty days. Therefore, even if the court is satisfied that appellant was prevented by sufficient cause from filing the appeal within the period of 60 days, the outer limit is further period not exceeding sixty days. In the case at hand, in the application it is stated that the delay is of 1071 days.

4 Therefore, application dismissed.

(NEELA GOKHALE, J.)

(K. R. SHRIRAM, J.)