

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CIVIL APPLICATION (CAO) NO. 221/2023 IN
MISC. CIVIL APPLICATION STAMP NO. 612/2023

Stellar Industries, Nagpur and others

Vs.

M/s International Combustion (India) LTD., Nagpur through its Authorized Officer

Office Notes, Office Memoranda of Coram,
appearances, Court's orders or directions
and Registrar's orders

Court's or Judge's orders

Shri S.M. Pande, Advocate for appellants

Shri S.V. Bhutada, Advocate with Shri yash Maheshwari, Advocate for respondent

CORAM : SMT. M.S. JAWALKAR, J.

DATE : 17/02/2023

Present application is filed for condonation of delay of 5 days in filing review application in respect of order dated 01/12/2022, in Civil Application No.1061/2022 in Second Appeal No. 539/2019. It is submitted that the Counsel for applicant was seeking advice for exploring remedy before Apex Court. However due to Christmas vacation, he could not contact his Counsel at Delhi immediately and get appointment for consultation. It was advised that it would be appropriate to prefer review application. In that, process five days delay was caused in filing review application.

2. The learned Counsel for the respondent vehemently opposed the application. He relied on the citation *Rajendra Namdeorao Akre Vs. Rajkumar Bhalerao Balbudhe and another, reported in 2015 SCC Online 6001*, wherein it is

held by this Court that it is settled position of law that in absence of any proper explanation of delay, the same cannot be condoned merely for the asking. The explanation has to be reasonable or plausible whenever Court has to exercise judicial discretion. Though a liberal approach is required to be adopted, such an approach cannot be exercised. There is total absence of reasonable explanation as to why the delay has been caused. The learned Counsel also relied on ***Kumar and others Vs. Karnataka Industrial Cooperative Bank Limited and another, reported in (2013) 11 SCC 668***, in support of his contention that the only on the basis of bald statement High Court could not have condoned the delay on the ground that mere technicalities should not come in the way of rendering the justice.

3. I have heard both the parties and considered the citations placed on record. In my considered opinion plausible reason is given to explain the delay, in view of explanation given in paragraph No.2, I am satisfied that the delay of five days needs to be condoned. Accordingly application is allowed. Delay in filing review application is hereby condoned.

4. Registry is directed to register the review application.

5. The application is disposed of.