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C.M.P.No.12031 of 2023 in
Rev.Appl.SR.No.44400 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 13.06.2023

CORAM

THE HONOURABLE MR.JUSTICE S.M.SUBRAMANIAM

C.M.P.No.12031 of 2023 in
Rev.Appl.SR.No.44400 of 2023

“SUN DATA COMPUTERS”

Rep. By its Proprietor P.Prabhakara Reddy,
62, Jermiah Road, Vepery,
Chennai – 600 007.

... Petitioner/Appellant

Vs

1.The Regional Director,
ESI Corporation,
Chennai – 600 034.

2.The Recovery Officer,
ESI Corporation,
Chennai – 600 034.

... Respondents

PRAYER in CMP.: Petition filed under Section 5 of the Limitation Act, to condone the delay of 364 days so as to file the Review Petition.

Prayer in Review Petition : Review Application filed under Order XL VII Rule 1 read with Section 114 of the Civil Procedure Code, praying to review the impugned order in C.M.A.No.1652 of 2013 dated 17.03.2021.

For Petitioner : Mr.T.Natarajan

For Respondents : Mrs.S.Jayakumari
Standing Counsel for ESI Corporation



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ORDER

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The civil miscellaneous petition is filed to condone the delay of 364 days in filing the review petition.

2. The review petition has been filed to review the order dated 17.03.2021 passed in C.M.A.No.1652 of 2013.

3. The learned counsel for the review petitioner mainly contended that due to Covid-19 restrictions, Court holidays, physical condition of the petitioner and due to old age diseases, the petitioner is unable to file review petition within the time limit. Further, it is stated that the delay occurred unintentionally and not deliberately. The petitioner applied for order copy on 19.04.2021 and he could secure the order copy on 23.08.2021. Except the said reasons, the petitioner has not substantiated the reason for such a long delay.

4. Uncondonable delay cannot be condoned in a routine manner by the Courts. Law of limitation is substantive. Rule is to file petitions within



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the period of limitation. Condonation of delay is an exception. Exceptions cannot be adopted as a rule. Thus, the delay is to be condoned only when the reasons are acceptable but not otherwise. Reasons for condoning enormous delay must be genuine and has to be substantiated. In the event of mechanically condoning the delay, the very sanctity of “law of limitation” is diluted, which is impermissible.

5. Let us examine the reasons stated by the petitioner for condonation of delay of 364 days. The petitioner states that there was no transport services due to covid-19. The final order in the Civil Miscellaneous Appeal was passed by this Court on 17.03.2021 and more specifically, the office of the petitioner is at Vepery, Chennai City which is hardly about 4 to 5 kilometers from the High Court buildings. Therefore, the very reason stated that there is no availability of transport service is unacceptable.

6. The petitioner is represented through the learned counsel and therefore, the other reasons stated about restrictions due to covid-19 is not available to the petitioner. More so, the High Court has provided the facility



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of representing the case virtually and in the present case, the petitioner presented his case virtually and the learned counsel for the respondents appeared physically in the Court. That being the factum, the very reason stated by the petitioner is unacceptable and cannot be construed as genuine.

7. In view of the fact that the petitioner has not established any acceptable ground for the purpose of condoning the delay of 364 days, the Civil Miscellaneous Petition No.12031 of 2023 stands dismissed. Consequently, the Review Petition stands rejected at the SR stage itself.

13.06.2023

Index : Yes/No

Speaking Order : Yes/No

Sgl

Copy to:

The Sub Assistant Registrar,
AE Section, High Court,
Chennai.



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S.M.SUBRAMANIAM, J.

Sgl

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