

FAO No. 1517 of 2015

[1]

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

FAO No. 1517 of 2015 (O&M)

Date of decision: 26th May, 2023

Punjab State Coop. Supply and Marketing Federation Ltd.

Appellant

Versus

Friends Rice and General Mills and another

Respondents

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Tarunvir Singh Lehal, Advocate
for the applicant-appellant.

AVNEESH JHINGAN, J (Oral):

1. The appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') is accompanied by an application for condoning delay of 358 days in filing the appeal.

2. The applicant-appellant entered into an agreement for custom milling with the Punjab State Coop. Supply and Marketing Federation Ltd. (for short, 'Markfed'). The terms and conditions provided for dispute resolution through arbitration. The arbitration initiated at the instance of the applicant-appellant culminated in award dated 22.5.2007. The objections filed by the respondent No.1 were allowed on 26.9.2013. Hence the present appeal.

3. The sufficient cause pleaded for condoning the delay is that it took time for the Managing Director and the law officer to take a decision for filing an appeal.

4. The Supreme Court in ***Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation and another, 2010 (5) SCC, 459*** held that a liberal approach be adopted in condoning the delay of short duration and a stricter approach where the delay is inordinate.

5. The Supreme Court in ***Office of the Chief Post Master General and others Versus Living Media India Ltd. And another, 2012 AIR (Supreme Court), 1506***

“13) In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

6. The Supreme Court in case of ***Tribhuvanshankar Vs. Amrutlal, 2014 (1) RCR (Civil) 206*** laid down that the fundamental policy behind the limitation is that if a person does not pursue his remedy within the stipulated time-frame, the right to sue gets extinguished.

7. In case of ***Amalendu Kumar Bera and others Versus The State of West Bengal 2013 (2) RCR (Civil) 534***, the Supreme Court held that the delay in filing the appeal or revision cannot and shall not be mechanically condoned and in the absence of 'sufficient cause' delay shall not be condoned. In case of serious negligence, the delay should not be

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condoned.

8. No sufficient cause worth acceptance has been pleaded or averred for condoning the delay.

9. The applications for condonation of delay in filing and re-filing the appeal are dismissed. Consequently, the appeal is also dismissed.

[AVNEESH JHINGAN]
JUDGE

26th May, 2023
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| 1. Whether speaking/ reasoned | : | Yes / No |
| 2. Whether reportable | : | Yes / No |