

18.09.2024
Item No.22
PG/KS
Ct. No.1

M.A.T. 1868 of 2023

**State of West Bengal & Ors.
vs.
Emami Agrotech Ltd. & Anr.**

Mr. Tanoy Chakraborty
Ms. Aspita Mondal..... for the appellants

Mr. T.M. Siddiqui
Mr. Suddhadev Adak.....for the WBIDC

Mr. S.N. Mookherjee, Sr. Adv.
Mr. Rajarshi Dutta
Mr. Rahul Dhanuka
Mr. Niraj Baheti
Mr. Yash Singh....for the respondent/writ petitioner

1. This appeal by the State is directed against the order passed by the learned Single Bench in W.P.A. 4916 of 2022 dated September 16, 2022. Identical issue came up before the learned Single Bench in an identical matter in the case of **Prime Cold Stores Pvt. Ltd. & Anr. v. The State of West Bengal & Ors.** in **W.P.O. 270 of 2022** and the learned Single Bench by order dated September 21, 2022 allowed the writ petition against which the state of West Bengal had preferred an intra-Court appeal in A.P.O.T. 165 of 2023, which was dismissed with certain directions by judgment dated June 28, 2023.
2. The State preferred appeal to the Hon'ble Supreme Court in **Special Leave Petition (Civil) Diary No.(s) 45954 of 2023**, which was dismissed by order dated

January 25, 2024, when the questions of law raised for consideration were kept open, to be considered in another case. Thus, the order passed in the case of Prime Cold Stores Pvt. Ltd. was not interfered by the Hon'ble Supreme Court.

3. The present appeal is barred by time and there is delay of 338 days in filing the appeal. To be noted that the decision of the learned Single Bench in the instant case was prior to the decision in Prime Cold Stores Pvt. Ltd. With this in mind, we have examined the reasons set out in the affidavit filed in support of the application for condonation of delay.
4. The appellants, while admitting that the order was passed by the Honb'ble Single Bench on September 16, 2022, would state that discussion among the officers, whether to file an intra-Court appeal or not was commenced after a period of nearly ten months during July, 2023. Thus, ultimately a decision was taken on September 19, 2023 to prefer the appeal. We find the explanation to be bereft of particulars, not convincing and would not qualify as sufficient cause for condonation of the delay of 338 days in filing the appeal.
5. For such reasons, the application for condonation of delay (I.A. No. CAN 1 of 2023) stands dismissed and consequently the appeal stands rejected.
6. No costs.

7. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T.S SIVAGNANAM)
CHIEF JUSTICE

(HIRANMAY BHATTACHARYYA, J.)