

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.6478 OF 2024

Hind Kamgar Sanghatana
V/S

....Petitioner

M/s. Haier Appliances India Pvt. Ltd.

....Respondent

Ms. Seema Chopda a/w Mr. T.R. Yadav *for the Petitioners.*
Mr. Mahendra M. Agavekar a/w Mr. Vijay P. Vaidya and
Ms. Shraddha Chavan *for Respondent.*

CORAM: SANDEEP V. MARNE, J.
DATE : 23 OCTOBER 2024.

P.C.:

1. It appears that there is an alternate remedy of filing an application for recall of order dated 26 October 2023 passed by the Industrial Tribunal. In fact Mr. Agavekar, the learned counsel appearing for Respondent-employer invites my attention to the judgment of the Apex Court in ***Haryana Suraj Malting Ltd. vs. Phool Chand***, (2018) 16 SCC 567 in which the Apex Court has held in para 34 as under:

“34. In case a party is in a position to show sufficient cause for its absence before the Labour Court/Tribunal when it was set ex parte, the Labour Court/Tribunal, in exercise of its ancillary or incidental powers, is competent to entertain such an application. That power cannot be circumscribed by limitation. What is the

sufficient cause and whether its jurisdiction is invoked within a reasonable time should be left to the judicious discretion of the Labour Court/Tribunal.”

2. In that view of the matter, the Petition is disposed of by granting liberty to the Petitioner to make an application before the Industrial Tribunal for restoration of the Reference. While considering the said application, the time spent for prosecution of the present Petition shall be excluded.

(SANDEEP V. MARNE, J.)

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KATKAM

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