



**C.M.P.No.15857 of 2024**  
**in CMA(PT)/SR.93952/2023**

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**SENTHILKUMAR RAMAMOORTHY,J**

By this petition, the petitioner / intending appellant seeks the condonation of 1305 days delay in filing the appeal.

2. Since the length of delay is substantial, it is necessary to closely examine the reasons cited for condonation of delay. The order sought to be impugned was issued on 24.09.2019. The petitioner states that it took time to file the appeal on account of the appellant being based in the United States of America and due to the out break of the Covid-19 pandemic. Therefore, it is stated that the appeal was filed before the erstwhile Intellectual Property Appellate Board (IPAB) on 24.02.2020. After the IPAB was disbanded on 04.04.2021, it is stated that the appeal was transferred to the Hon'ble Delhi High Court and numbered as C.A.(Comm.IPD-PAT) No.120 of 2022. Thereafter, by order dated 16.11.2022, the Delhi High Court directed that the appeal should be transferred to this Court.

3. Learned counsel for the petitioner referred to the above sequence of dates and events and submitted that the transferred appeal could be filed before this Court only on 06.01.2023 since the transfer of files took time and the procedure in respect of filing of such appeals had not been finalized at that point of time.

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4. This petition is opposed by the respondent on the ground that the petitioner should have brought it to the notice of the Delhi High Court earlier that such Court did not have jurisdiction. It is further stated that the reasons set out in the affidavit are not sufficient to condone the delay.

5. The petitioner lodged the appeal before the IPAB on 24.02.2020. In effect, the appeal was lodged with a delay of about two months. The petitioner cannot be blamed for the events that transpired thereafter, such as the abolition of the IPAB or the transfer of the file to the Delhi High Court by the IPAB. It is also a matter of record that the framing of the IPD Rules and the constitution of the IPD took some time. These facts and circumstances constitute sufficient cause for the delay. Hence this petition is allowed as prayed for. As a corollary, the Registry is directed to number the appeal, if otherwise in order.

29.08.2024

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