



CM-15750-CII-2017 in
RA-CR-112-CII-2017, *IN FAO-913-2009*

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IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

215 CM-15750-CII-2017 in
RA-CR-112-CII-2017,
IN FAO-913-2009 (O&M)
Date of Decision: 21.08.2024

M/S BCC RICE MILLS & ORS

.... Review-applicants

Vs

PUNJAB STATE WAREHOUSING
CORPORATION & ORS

... non-applicants/appellants

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Jastej Singh Arora, Advocate for the review-applicants.

None for the non-applicants/appellants.

SUVIR SEHGAL, J. (ORAL)

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1. Prayer in the application is for condonation of delay of 542 days in re-filing of the review-application.
2. Notice of the miscellaneous as well as review application was issued by this Court on 25.08.2017.
3. Despite being served, non-applicants/appellants have not put in appearance and they were proceeded against ex-parte vide order dated 10.05.2022.
4. For the reasons given in the application, it is allowed.



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5. Delay of 542 days in refiling of the review-application is condoned.

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6. While issuing notice in application, this Court passed the following order on 25.08.2017:-

“C.M. No.15749-CII of 2017

The application has been filed for making good the deficiency of court fee.

Keeping in view the fact that the deficiency of court has been made good, the application is allowed.

C.M. No.15750-CII of 2017 and RA No.112-CII of 2017

*The present review application has been filed for review of the order dated 17.11.2015 at the behest of the Punjab State Warehousing Corporation accompanied by an application for condonation of delay of 542 days in refiling the review application and application for making good the deficiency of court fee on the premise that the miller in proceedings initiated before the Arbitrator had not taken the objection with regard to the jurisdiction as envisaged under Section 4 of the Arbitration and Conciliation Act, 1996. In order to lend support to the aforementioned arguments, the counsel for the applicants shown copy of the written statement filed before the Arbitrator as well as the order of rejection, a photocopy of which is taken on record. He further relies upon the judgment of this Court passed in FAO No.1576 of 2008 decided on 23.12.2015 titled as **“State of Haryana Vs. M/s Mehta Construction Co. and another”** and of Hon'ble Supreme Court in **Narayan Prasad Lohia Vs. Nikunj Kumar Lohia and others** 2002 AIR (SC) 1139 to contend that the non-applicants/appellants never took the plea of matter being falling under the excepted*



clause.

Notice in the application for condonation of delay in re-filing the review application to the counsel appearing for the non-applicants/appellants Mr. Sushil Saini and M/s B.C.C. Rice Mills on the address given in the memo of parties for hearing date on 20.09.2017.”

- 7. There is no representation on behalf of non-applicants/appellants.
- 8. For the reasons recorded above, review-application is allowed.
- 9. Order dated 17.11.2015 passed by this Court is recalled.
- 10. Appeal is restored to its original number.

Main appeal

- 11. Issue notice to the appellants for 23.10.2024.

21.08.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No