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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA(COMM) 57/2024 & CM APPL. 9740/2024, CM APPL. 9741/2024 and CM APPL. 9742/2024**

M/S SATGURU PESTICIDES APPELLANT

Through: Mr. Pushpinder Singh, Adv.

versus

M/S UNIQUE FARM AID P LTD RESPONDENT

Through:

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

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16.02.2024

CM Appl.9741/2024

1. The appellant has filed the above-captioned appeal against the judgment and decree dated 25.11.2020 passed by the learned District Judge, Commercial Court-05, Central District, Tis Hazari, Delhi in CS(COMM) No. 404/2019. The present appeal is highly delayed. The appellant has quantified the delay as 1067 days and filed an application seeking condonation of the said delay. However, the period between 25.11.2020 and 28.02.2022 is liable to be excluded in view of the orders passed by the Supreme Court in *Suo Motu* Writ Petition (Civil) No.3 of 2020 in Re: Cognizance for Extension of Limitation.

2. The appellant had further time of 90 days after 28.02.2022 to file the present appeal. If the said period is excluded, the present appeal has been filed after a delay of 466 days. The only explanation provided for this delay is in paragraph 3 and 4 of the application, which reads as under:

“3. It is submitted that due to bonafide and unintentional reasons, which were beyond the control of the appellant, the delay has occurred in filing the present appeal. It is respectfully submitted that during the



Covid the fall [sic:false] ceiling of the office fell down due to lockdown and non-operation of the work in the basement office of the counsel for the applicant/appellant. When the counsel for the appellant came back to office after the long term period he saw there was a lot of damage happened to the office stationery, files and furniture, thereafter, the counsel for the appellant tried their level best to get and recover or save as much as his office record, out of which the present matter was missed to take steps on time without further delay.

4. It is due to aforesaid reasons, the delay has occurred in filing the present appeal. It is submitted herewith great respect that the delay caused in filing the instant appeal has been occasioned for reasons which were beyond the applicant's control and thus the delay caused is not deliberate and in the interest of justice may be condoned. The counsel for the petitioner only came to know from client when the execution petition has been filed and the petitioner received the notice in that and thereafter the certified copies of the record is sought and filed the present appeal before the Hon'ble Court."

3. The appellant has not given any particular dates as to when the events causing delay had occurred. The order sheets in the suit proceedings indicates that the appellant was duly served but had not filed the written statement. A counsel had appeared for the appellant on 21.10.2019 and the matter was re-listed on 25.11.2019. However, since the respondent did not appear in the proceedings thereafter, the respondent's right to file written statement was closed and an *ex-parte* decree was passed against the appellant (defendant in the suit).

4. Thus, it is seen that the appellant did not defend the suit despite the due notice of the same. In view of the above, we find it difficult to accept that the reasons cited in the application present a sufficient cause that prevented the appellant from filing the appeal within the stipulated period.

5. The object of the Commercial Courts Act, 2015 is to ensure expeditious disposal of the disputes. The legislative policy no longer permits countenance of lackadaisical approach in pursuing the matters. The timeline



as provided under the Commercial Courts Act, 2015 are required to be complied with and it is not apposite to adopt a liberal approach in countenancing the delay in filing applications/appeals. In ***Government of Maharashtra (Water Resources Department) Represented By Executive Engineer v. M/s Borse Brothers Engineers & Contractors Pvt. Ltd.: (2021) 6 SCC 460***, the Supreme Court observed as under: -

58. Given the object sought to be achieved under both the Arbitration Act and the Commercial Courts Act, that is, the speedy resolution of disputes, the expression “sufficient cause” is not elastic enough to cover long delays beyond the period provided by the appeal provision itself. Besides, the expression “sufficient cause” is not itself a loose panacea for the ill pressing negligent and stale claims.

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63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals under section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule....

6. In the present case, we find no credible explanation – except that the appellant has been grossly negligent – for the delay in filing the captioned appeal.

7. The application is accordingly disposed. Consequently, the appeal is dismissed as well. All pending applications are disposed of.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

FEBRUARY 16, 2024/r

[Click here to check corrigendum, if any](#)