



\$~6

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO (COMM) 187/2024**

M/S GOLDEN FOOD PRODUCTSAppellant

Through: Mr. Rohan Rohatgi, Ms.
Shubhangini Rohatgi, Ms.
Anshu Tulsyan and Mr. D.K.
Yadav, Advs.

versus

RAVI KANT AWASTHI & ANR.Respondents

Through: Appearance not given.

CORAM:

HON'BLE MR. JUSTICE YASHWANT VARMA

HON'BLE MR. JUSTICE DHARMESH SHARMA

ORDER

13.11.2024

%

CM APPL. 55297/2024 (44 Days Delay)

1. This application has been moved for condonation of the delay caused in the preferment of the instant appeal.
2. The appeal is directed against the order dated 02 May 2024 passed by the Trial Judge vacating the injunction which had operated in favour of the appellant as a consequence of the application under Order XXXIX Rule 4 of the Code of Civil Procedure, 1908 moved by the respondents being allowed.
3. As per the admissions made in the application itself, the applicant applied for a copy of the impugned order on 09 May 2024, the certified copy of the order was prepared on 04 June 2024 and was obtained by the appellant on 03 July 2024. The present appeal, thereafter, came to be filed before this Court on 17 September 2024 and thus causing the delay of 44 days.



4. The solitary explanation which is proffered for condonation of delay caused is that the management was engaged and tied up in a tax audit which was being carried out during July and August, 2024. It is in that backdrop that they assert that they could not execute the appeal documents timely.

5. Pursuant to the notice issued on this application, the respondents have filed a reply and have vehemently opposed the prayer for condonation. More importantly, they have brought to our attention the filing undertaken by the appellant/applicant itself before the Trial Judge on 01 August 2024 and the affidavit which was filed before the said court and which was affirmed on 12 July 2024. That affidavit was duly taken up for consideration by the Trial Judge on 01 August 2024.

6. We bear in consideration the strict time frames which the Commercial Courts Act, 2015 constructs for preferment of appeals. The mere pendency of an audit is thus not found sufficient to condone the delay as caused. This more so when an interim order of protection which operated in their favour had come to be vacated. The Court would expect an aggrieved person in a commercial dispute to act with far greater diligence.

7. In any case, the reason assigned in support of the application for condonation clearly does not come across as genuine and one which could be legitimately acknowledged to be sufficient.

8. The application consequently stands rejected.



FAO (COMM) 187/2024

9. In view of the order passed on CM No. 55297/2024, the appeal shall stand consigned to the record.

YASHWANT VARMA, J.

DHARMESH SHARMA, J.

NOVEMBER 13, 2024/DR