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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **RFA(COMM) 71/2024 and CM APPL. 12022-24/2024**
KISSAN SEEDS PESTICIDE CORNER Appellant
Through: Mr.Akshay Verma, Advocate.
versus
BAAGWAN INDIA Respondent
Through: None.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MR. JUSTICE TUSHAR RAO GEDELA

ORDER

% **27.02.2024**

CM APPL. 12024/2024

1. The present application is filed by the appellant seeking condonation of delay of 338 days in re-filing the present appeal. The only explanation provided in the application for justifying the delay reads as under:-

“3. That initially the original file of the present case was tagged with some other bunch of files due to which some delay occurred in tracing the original file. However, after file is traced from the office of Advocate, the matter was immediately re-filed.

4. That after re-filing of the present petition before this Hon'ble Court, the registry of this court has marked various objections. However, which took some time to remove the defects.

5. That as and when the previous objections were removed by the petitioner, some fresh objections were again marked by the registry which again took some more time to cure the defects.”

2. It is material to note that the above-captioned appeal was filed on 27.02.2023. The filing was defective and the defects were pointed out by the Registry on the next date. The filing was marked as defective and sent



for re-filing on 28.02.2023. However, thereafter, the appellant took no immediate steps to re-file the same. The appeal was re-filed on 11.07.2023. It continued to be defective. It was, accordingly, marked as defective and returned for re-filing on the same date, that is, on 11.07.2023. Once again, the appellant took no steps to immediately re-file the appeal after curing the defects as pointed out. It was re-filed on 19.12.2023.

3. It was marked as defective and returned for re-filing on the same date, that is, on 19.12.2023. It was, thereafter, successively re-filed on 21.12.2023, 03.01.2024 and 12.01.2024 and was, on each occasion, marked defective and returned for re-filing. It was finally re-filed on 22.02.2024.

4. It is apparent that the explanation provided by the appellant can hardly be co-related to a delay in re-filing. As noted above, the only explanation provided was that the file was tagged with a bunch of other files and it took time to trace the same. And, second, it took time to remove the defects. It is relevant to note that after the filing was marked as defective and returned on 28.02.2023, it took more than four months (which is twice the period available for filing an appeal) to re-file the same on 11.07.2023. Even if it is assumed that the file had been misplaced and it took time to trace the same, there is no explanation for the delay in re-filing that occurred thereafter. As noted above, the filing was marked as defective on 11.07.2023 and once again, the appellant took no steps to re-file the same for more than five months. It was re-filed on 19.12.2023. There is no explanation for such delay.

5. The disputes involved in the present case are commercial disputes



and such inordinate delay cannot be countenanced. As noted above, we also find that there is no credible explanation, which would even remotely justify the delay in re-filing.

6. The application is, accordingly, dismissed. Consequently, the present appeal is dismissed as well.

7. Pending applications are also disposed of.

VIBHU BAKHRU, J

TUSHAR RAO GEDELA, J

FEBRUARY 27, 2024

M/RK

Click here to check corrigendum, if any