

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO. 45 OF 2024.
IN/WITH
FIRST APPEAL (ST) NO. 13093 OF 2018.

Universal Plastics Throug Proprietor Shri. Bharat
Ganpat Sheth

...Applicant
(Org. Appellant)

Versus

Employees State Insurance Corporation Through
Concerned Asst. Director And Ors.

...Respondents.

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Mr. Vaibhav R. Gaikwad for the Applicant.

Mr. Shailesh S. Pathak for the Respondent-ESIC.

Coram : Sharmila U. Deshmukh, J.

Date : March 27, 2025.

P. C. :

1. Interim Application has been preferred seeking condonation of delay of 1 year 177 days caused in preferring the Appeal.

2. Learned Counsel appearing for the Applicant submits that after impugned Judgment dated 30th August, 2016 was passed the certified copies were applied for and received on 23rd November, 2016. He submits that Writ Petition No. 2626 of 2018 was filed before this Court instead of filing the First Appeal. He submits that in view of the preliminary objection raised during the hearing of the Writ Petition the Petition came to be withdrawn and the present Appeal has been filed.

He submits that the same has resulted in delay of 177 days.

3. Learned Counsel appearing for the Respondent-Corporation would submit that the filing of incorrect proceedings would not amount to sufficient explanation and the delay is substantial of 1 year 177 days.

4. It is not disputed that after the impugned Judgment was passed the Applicant had adopted remedy of filing of Writ Petition and it is only during the hearing of the Writ Petition, in view of the preliminary objection raised, the First Appeal came to be filed which has resulted in delay. It is not case of the Respondent that the filing of Petition was malafide. As such provisions of Section 14 of Limitation Act, 1963 would also come to the aid of the present Applicant. The remedy of the Appeal was adopted subsequent to the withdrawal of the Writ Petition, the delay of 1 year and 177 days is sufficiently explained and thus stands condoned. Interim Application is allowed.

5. List the above First Appeal for admission on **23rd April, 2025.**

[Sharmila U. Deshmukh, J.]