rajshree

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.5034 OF 2024

IN

CRIMINAL APPEAL (ST) NO.25211 OF 2024

Genex Infratech Limited ....Applicant

vs.

State of Maharashtra & Ors. ....Respondents

Mr.A.A.Kumbhakoni, Senior Advocate i/b Lalit Joshi for the Applicant.

Mr.Tanveer Khan, APP for the State.

Mr.Avinash Avhad, SPP for Respondent Nos.2 and 3.

Mr.Arvind Lakhawat a/w Jalpa Shah i/b MZM Legal LLP for Respondent No.4-NSEL.

Mr.Mahadeo Kirvale- CA.

Mr.Samadhan Wagh, PI, EOW.

Mr.Vijay Choure, Sr.PI EOW.

CORAM : BHARATI DANGRE &
SHYAM C. CHANDAK, JJ.

DATE : 23rd DECEMBER, 2025.

P.C.

1 The Appellant, Genex Infratech Limited has filed Criminal Appeal under Section 11 of the Maharashtra Protection of Interest of Depositors Act, 1999 (MPID Act), being aggrieved by the order dated 04/03/2016 passed by the designated Court under MPID Act.

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By the said order, the Special Judge, Greater Bombay confirmed attachment of the properties belonging to the Appellant, which were subject matter of Section 4 Notification issued by the Government of Maharashtra in the MPID case registered in respect of the National Stock Exchange Limited (NSEL).

The order under Section 4(1) of the MPID Act being issued on 12/03/2015, on 04/03/2016 the attachment has made absolute ordering the sale of properties of the Appellant.

Being aggrieved by the said decision, the Appeal is filed. The Appeal is accompanied by the present Interim Application seeking condonation of delay of 7 years and 213 days in its filing.

2 In support of the Application, I have heard the learned senior counsel Mr. Ashutosh Kumbhakoni for the Applicant, learned SPP Mr.Avhad for the State and the Competent Authority and Mr.Lakhawat representing the NSEL which is impleaded as Respondent No.4.

3 Based on the pleadings in the Application, Mr. Kumbhakoni would submit that when the properties of the Appellant were subjected to attachment by the Government of Maharashtra by issuing Notification under Section 4 on 28/08/2014, which included bank account of the Appellant, based on allegations levelled against one ARK Imports who was member of NSEL and acted as its broker member in respect of the trading carried out by its client, who were trading on NSEL portal and supplying hosiery items like raw wool and wool top etc.

Followed by the Notification under Section 4, another Notification was issued on 12/03/2015 under which various assets were attached which included the assets belonging to the Appellant based on the allegations against ARK Imports as Mr.Kailash Aggarwal who was Director of ARK Imports is also a Director of the Petitioner.

The impugned order passed by the competent Court made this attachment absolute and according to the Appellant the order was passed without it being represented and by recording that Mr. Kailash Aggarwal, the main accused in the matter, had consented to sell the attached assets of ARK Imports and other related companies which included with the Appellant.

According to the Appellant, Kailash Aggarwal was not authorized to give consent for sale of its assets as there is no Board Resolution passed or Power of Attorney issued to him by the Appellant consenting to sell the properties.

As per Mr.Kumbhakoni, this impugned order gave rise to filing of the Petition before the Punjab & Haryana High Court on the premise that the Appellant had its registered office in Punjab and its property was situated in Punjab and on 09/06/2016, the Punjab High Court passed the following order :-

> "In the meantime, status quo regarding the immovable property owned by the petitioner shall be maintained. The petitioner shall also not alienate or dispose off the properties or create any incumbrance in the property mentioned in the said notification without prior permission of the Court."

4 The proceedings filed before the Punjab & Haryana High Court at Chandigarh with the aforesaid order continued to operate and it is only on 06/05/2024, the High Court decided the

bunch of Petitions arising out of similar issue. As far as, the Petitioner is concerned, it recorded thus :-

> "Challenge in the writ petition was to the Notification dated 28.08.2014 (Annexure P-2) and Notification dated 12.03.2015 (Annexure P-3), issued by the State of Maharashtra whereby the property and the bank accounts of the petitioner had been ordered to be attached.
> Learned counsel appearing for the petitioner contends that the order of attachment had been passed by invoking Section 4 of the Maharashtra Protection of Interest of Depositors (in Financial Establishments) Act, 1999. He submits that the similar controversy was pending before this Court in a bunch of writ petitions which was disposed of vide order dated 25.10.2017 passed in CWP-11189-2014 titled as 'White Water Foods Pvt. Ltd. and another Vs. State of Maharashtra and others.' This Court noticed that the authorities i.e. Union Territory of Chandigarh and State of Punjab and Haryana, have merely acted on the basis of communications/notices received from the appropriate authority of the State of Maharashtra and that the writ petitions would not be maintainable before this Court. The petitioners were thus advised to take recourse to their remedies as per law and before Competent Court in the State of Maharashtra
> In view of aforesaid submission made on behalf of the petitioner, the writ petitions CWP-12363-2016 and CWP-10386-2016 are disposed of in terms of order dated 25.10.2015 passed in CWP-11189-2014 'White Water Foods Pvt. Ltd. And another Vs. State of Maharashtra others'. Needless to mention that in the event petitioners take recourse to their appropriate remedy before the competent forum/authority/Court in the State of Maharashtra, the period during which the writ petitions have remained pending before this Court shall be taken into consideration while computing the period of limitation."

.... It is in the wake of the aforesaid order passed by the Punjab & Haryana High Court, by taking benefit of Section 4 of the Limitation Act, delay is sought to be condoned.

5 The Application plead that pursuant to the order passed by Punjab & Haryana High Court, after due internal discussions the Management of the Appellant sought opinion from the Advocate in Mumbai and in the first week of November 2024, the Appellant was advised to approach the High Court at Bombay and

thereafter raising the challenge to the impugned order dated 04/03/2016 the process was initiated and Appeal was filed in the month of December, 2024. However, there occurred delay of 7 years and 213 days and the same is sought to be condoned.

6 The learned counsel Mr.Avhad representing the Competent Authority and learned counsel Mr. Lakhawat representing NSEL have strongly raised an objection on the application by submitting that when the Appeal was withdrawn, no leave was granted to raise challenge to the order dated 04/03/2016 and it is contended by Mr.Lakhawat that the benefit of Section 14 cannot be availed by the Appellant as for the purpose of Section 14, it is necessary for the Petitioner to establish that he has been prosecuting, "with due diligence" another similar proceedings when the proceedings relates to the matter in issue and the same is prosecuted in "good faith", in a Court, which, from defect of jurisdiction or other cause of like nature is unable to entertain it.

It is the contention of Mr.Avhad as well as Mr. Lakhawat that challenge was raised before the Punjab and Haryana High Court only to the order issued under Section 4 of the MPID Act in form of a Notification proposing attachment of the property, but there was no challenge to the order of attachment and in the present Appeal, the Appellant has raised challenge to the order dated 04/03/2016 passed by the designated Court under the MPID Act to the extent it confirms the attachment of the Appellant's assets as well as the Notification dated 28/08/2014 and the Notification dated 12/03/2015 issued by the State Government to the extent that it attaches assets of the Appellant,

is also called in question. Ultimately the relief sought in the Appeal is to release the assets of the Appellant attached under Notification dated 28/08/2014 and Notification dated 12/03/2015.

7 Mr. Avhad and Mr. Lakhawat thus urged that the benefit of Section 14 is not available to the Appellant for three reasons :- a) the proceedings were pending before the Punjab and Haryana High Court from 2016 to 2025 with no steps being taken to seek its disposal and, therefore, the Appellant was not prosecuting it with due diligence; b) the proceedings do not relate to the same matter in issue and; c) the proceedings before the Punjab & Haryana High Court were not prosecuted in 'good faith'.

It is, therefore, contended by the respective counsel for the Respondents that the delay do not deserve condonation and reliance is placed on the decision of the Apex Court in case of ***Shankargir vs. State of M.P.***[1], when the Apex Court came down heavily that the delay of 1612 days was condoned without sufficient cause.

8 Mr.Lakhawat has also placed reliance upon the decision of Kerla High Court in case of ***Mac-N-Hom Systems vs. Vaidya Ratnam P.S. Varrier's Aryavaidyasala***[2], which has explained the term 'good faith' under Section 2(h) of the Limitation Act to mean unless it is done with due care and attention and with a specific use of the word with 'good faith' and 'due diligence', he would place reliance upon the following observation :-

"6. Expression "good faith" has been defined under Section 2(h) of the

1 2025 SCC OnLine SC 2816
2 AIR 2004 Ker 91

> Limitation Act which reads as follows :
> (h) 'good faith' nothing shall be deemed to be done in good faith which is not done with due care and attention.
> Legislature has advisedly used the words "due diligence" in Section 14(1), so also the expression "good faith". This is a case where the respondent's lawyer has alerted the petitioner and his lawyer as early as on 21-4-1998 that as per the agreement only the Sub-Court, Tirur has got jurisdiction. The petitioner and his lawyer preferred to contest the preliminary objection raised by the respondent with regard to the jurisdiction of the Sub-Court, Ernakulam and got an adverse order after the period of limitation. We are of the view petitioner was not prosecuting the matter with due diligence or in good faith before the Sub-Court, Ernakulam. Under such circumstance we are of the view that petitioner is not entitled to get the benefit of Section 14(1) of the Limitation Act. Consequently the Court below is justified in dismissing the application holding that the petitioner is not entitled to exclude the time spent for prosecuting the application in the Sub-Court, Ernakulam in computing the period of limitation. Court below has rightly dismissed the application under clause (f) of Rule 5 of Order 33, CPC. CMA would stand dismissed. No costs."

He would also rely upon the decision of the Bombay High Court in case of ***Foreshore Co-Operative Housing Society Ltd. vs. Praveen Desai Ors***[3], which has held that for claiming benefits of provisions of Section 14, the Plaintiff has to establish by leading evidence that firstly the earlier proceedings were instituted by them in good faith and thereafter they were prosecuted in good faith and failure to establish this, the benefit of Section 14 cannot be availed and the Suit filed would be barred by limitation.

9 On appreciation of the rival contentions, we have perused the application praying for condonation of delay which has mentioned two important timelines, the first being Writ Petition No.12363/2016 instituted before the Punjab & Haryana High Court raising the challenge to the Notification issued by the Government of Maharashtra in the year 2014 as well as the

3 (2006)MahLJ 870

Notification issued in 2015 attaching *interalia* the assets of the Appellant and by order dated 09/06/2016, the Parties were directed to maintain status quo in respect of the attached assets.

The next timeline is 06/05/2024 when the Writ Petition filed by the Appellant was dismissed on the ground that the Appellant ought to have filed appropriate proceedings in appropriate court.

Between these timelines, however, raised the observation of the Punjab & Haryana High Court which recorded that though the Petitioners were entitled to take recourse to the remedy before the competent forum/authority/court in the State of Maharashtra, the period during which the Writ Petitions have remained pending before the Court shall be taken into consideration while computing the period of limitation.

10 The aforesaid observation is relied upon by Mr. Kumbhakoni to submit that the period from 2016 to 06/05/2024 deserve an exclusion in light of Section 14 of the Limitation Act as the Appellant was prosecuting remedy in another Court in relation to the same matter in issue in 'good faith' , but the said court on account of defect of jurisdiction refused to entertain the same. Per contra, the argument advanced on behalf of the Respondents is that, the proceedings before Punjab & Haryana High Court were not prosecuted with 'due diligence' and in 'good faith'. It is to be noted that if the Appellant alongwith some other entities being aggrieved by Notification of Section 4 of the MPID Act approached the Punjab & Haryana High Court and this include the entity ***White Water Foods Pvt. Ltd. & Anr. vs. State of***

Maharashtra & Ors. in CWP No.11189/2014, in which on 25/10/2017, the following order was passed :-

> "During the course of hearing, a preliminary objection was raised by the State of Maharashtra that notice has been issued pursuant to notification dated 22.06.2015 issued by Maharashtra Government. Said notification had been issued under section 4 of the Act. If aggrieved, petitioners have the remedy of approaching the competent court at Mumbai. It also placed reliance on judgment of Gujarat High Court in ***Special Civil Application No.18637 of 2015 titled as Ashita Nilesh Patel & 1 vs. Deputy Secretary-Home Department & 9*** wherein similar plea was rejected by Gujarat court. The court did not find any ground to go into the merits of the controversy in view of jurisdictional issue raised by State of Maharashtra. Special Leave Petition No.10626-10627/2017 preferred against the said judgment was dismissed by Hon'ble Supreme Court vide its order dated 17.04.2017. The order passed reads as under -
> "The High Court has, inter alia, rejected the petition filed by the petitioners on the principle of forum conveniens holding that the designated Judge in the High Court of Bombay under the Maharashtra Protection of Interest of Depositors (in Financial Establishment) Act,1999 would be more appropriate forum. We do not see any reason to interfere with this order. It is submitted that the petitioners have raised the issue of jurisdiction before the High Court of Gujrat viz. the petitioners are not the financial establishment. Since the notifications dated 12.03.2015 and 22.06.2015 issued by the Government of Maharashtra are challenged on this ground, it would be open to the petitioners to raise this issue before the High Court of Bombay. We also make it clear that any observations made by the Gujarat High Court in the impugned order on merits of the case shall not come in the way of the petitioners and the concerned court shall decide the matter on its own merits.
> With the aforesaid observations these special leave petitions are dismissed.
> Pending application(s), if any, stands disposed of accordingly."

11 It is a well accepted position in law that rules of limitation are based on principles of sound public policy and principle of equity, as the 'sword of danocles' shall not be kept hanging over the head of a party for indefinite period of time to be determined at the whims and fancies of the Appellant.

While considering an application for condonation of delay, two considerations must be weighed; first consideration being

that the expiration of period of limitation prescribed had given rise to a right in favour of a decree holder to treat it as binding between the Parties and this right accrued shall not be permitted to be light heartedly disturbed. The other consideration which is of equal significance is, if sufficient cause of exclusive delay is shown then discretion is given to the Court to condone the delay and consider the Appeal on merits. The proof of sufficient cause is a condition precedent for exercise of discretionary jurisdiction vested in the Court under Section 5 when the delay is permitted to be condoned.

Much jurisprudence is developed on 'sufficient cause' and in ***Esha Bhattarcharfee v. Managing Committee of Raghunathpur Nafar Academy***[4], it is observed thus :

> "21. From the aforesaid authorities the principles that can broadly be culled out are:
> 21.1. (i) There should be a liberal, pragmatic, justice-oriented, non-pedantic approach while dealing with an application for condonation of delay, for the courts are not supposed to legalise injustice but are obliged to remove injustice.
> 21.2. (ii) The terms "sufficient cause" should be understood in their proper spirit, philosophy and purpose regard being had to the fact that these terms are basically elastic and are to be applied in proper perspective to the obtaining fact-situation.
> 21.3. (iii) Substantial justice being paramount and pivotal the technical considerations should not be given undue and uncalled for emphasis.
> 21.4. (iv) No presumption can be attached to deliberate causation of delay but, gross negligence on the part of the counsel or litigant is to be taken note of.
> 21.5. (v) Lack of bona fides imputable to a party seeking condonation of delay is a significant and relevant fact.
> 21.6. (vi) It is to be kept in mind that adherence to strict proof should not affect public justice and cause public mischief because the courts are required to be vigilant so that in the ultimate eventuate there is no real failure of justice.
> 21.7. (vii) The concept of liberal approach has to encapsulate the conception of reasonableness and it cannot be allowed a totally unfettered free play.
> 21.8. (viii) There is a distinction between inordinate delay and a delay

4 (2013)12 SCC 649

of short duration or few days, for to the former doctrine of prejudice is attracted whereas to the latter it may not be attracted. That apart, the first one warrants strict approach whereas the second calls for a liberal delineation.
21.9. (ix) The conduct, behaviour and attitude of a party relating to its inaction or negligence are relevant factors to be taken into consideration. It is so as the fundamental principle is that the courts are required to weigh the scale of balance of justice in respect of both parties and the said principle cannot be given a total go by in the name of liberal approach.
21.10. (x) If the explanation offered is concocted or the grounds urged in the application are fanciful, the courts should be vigilant not to expose the other side unnecessarily to face such a litigation.
21.11. (xi) It is to be borne in mind that no one gets away with fraud, misrepresentation or interpolation by taking recourse to the technicalities of law of limitation.
21.12. (xii) The entire gamut of facts are to be carefully scrutinised and the approach should be based on the paradigm of judicial discretion which is founded on objective reasoning and not on individual perception.
21.13. (xiii) The State or a public body or an entity representing a collective cause should be given some acceptable latitude."

In ***Purni Devi vs. Babu Ram,***[5] the issue arose as regards the exercise of 'due diligence' and 'good faith' contemplated in Section 14 of the Limitation Act as sub-section 2 of Section 14 permit exclusion of the time of proceedings bonafide in court without jurisdiction, but this is subject to the proceedings being prosecuted in 'good faith' and 'with due diligence'. With reference to the twin condition, the Apex observed thus :

"30. The principles pertaining to applicability of Section 14, were extensively discussed and summarised by this Court in *Consolidated Engg. Enterprises* (Supra), wherein while holding the exclusion of time period under Section 14 of the Limitation Act to a petition under Section 34 of the Arbitration Act it was observed:—

"**21**. Section 14 of the Limitation Act deals with exclusion of time of proceeding bona fide in a court without jurisdiction. On analysis of the said section, it becomes evident that the following conditions must be satisfied before Section 14 can be pressed into service:

(1) Both the prior and subsequent proceedings are civil proceedings

5 2024 SCC OnLine SC 482

prosecuted by the same party;

(2) The prior proceeding had been prosecuted with due diligence and in good faith;

(3) The failure of the prior proceeding was due to defect of jurisdiction or other cause of like nature;

(4) The earlier proceeding and the latter proceeding must relate to the same matter in issue; and

(5) Both the proceedings are in a court."

31. This Court in *Consolidated Engg. Enterprises* (Supra) further expounded that the provisions of this Section, must be interpreted and applied in a manner that furthers the cause of justice, rather than aborts the proceedings at hand and the time taken diligently pursuing a remedy, in a wrong Court, should be excluded."

Reliance was also placed from earlier decision in case of ***M.P. Steel Corporation v. CCE***[6] when the following observation was invoked and relied upon

34. The judgment of this Court in *M.P. Steel* (Supra) discussed the phrases, "*due diligence*" and "*in good faith*" for the purposes of invocation of Section 14 of the Limitation Act. While considering the application of Section 14 to the Customs Act, it was observed:

"**10.** We might also point out that Conditions 1 to 4 mentioned in the *Consolidated Engg. case* [(2008) 7 SCC 169] have, in fact, been met by the Plaintiff. It is clear that both the prior and subsequent proceedings are civil proceedings prosecuted by the same party. The prior proceeding had been prosecuted with due diligence and in good faith, as has been explained in *Consolidated Engg.* [(2008) 7 SCC 169] itself. These phrases only mean that the party who invokes Section 14 should not be guilty of negligence, lapse or inaction. Further, there should be no pretended mistake intentionally made with a view to delaying the proceedings or harassing the opposite party.

12 In construing the sufficiency of cause in the light of reasons offered, and while exercising discretion by the Court, it is not the length of delay, but sufficiency of the cause which is relevant.

It is the duty of the Court to ensure justice to both the

6 2015 7 SCC 58

Parties and when one party claim the benefit of delay and seek its condonation by assigning sufficient cause as to why he was unable to file an Appeal for the entire period, this sufficiency is to be pitched against the disadvantage being caused to other party. The consideration of diligence and bonafides of the party are to be tested while exercising discretionary power to condone the delay under Section 5, however, these considerations, unlike in Section 14 of the Limitation Act, are not expressly material or relevant under Section 5 as they are in case of Section 14. In excluding the period as contemplated in Section 14, it is essential to determine whether the proceedings which have been followed before the Court without jurisdiction are diligently followed or they are bonafide and this an ultimately be only derived from the conduct of the party. Though the court may not condone gross negligence, deliberate inaction or casual indifference as it would underline the principles providing limitation in statutes, definitely the Court will not get swayed by sympathy or be extra liberal and lean towards condonation where it is noted that a party had been negligent or attempted to extend the period of limitation nor in 'good faith' but rather adopted a casual approach and in such case the explanation offered may not be accepted and the delay may not be condoned. The decisive factor in condoning the delay is the adequacy of the cause shown and not the length of delay, but the Court will definitely consider whether the party acted with reasonable diligence and whether the reasons advanced depict a cause for not filing the proceedings within the prescribed limitation and in the words of Apex Court as expressed in ***Shivamma (Dead) By LRs. vs. Karnataka Housing***

Board[7], it is observed thus :-

> "131. The decisive factor is the adequacy of the cause shown, not the length of delay. What is critical is whether the party seeking condonation acted with reasonable diligence during the prescribed period and whether the reasons advanced demonstrate a genuine inability to file within time. Thus, the test is qualitative rather than quantitative.
> 132. This is not to say that the length of delay is irrelevant. A long delay naturally casts a heavier burden on the applicant to furnish cogent, credible, and convincing explanations. The proof required becomes stricter in proportion to the delay. The longer the time elapsed, the stronger the justification that must be put forth. Hence, length is instructive in determining the degree of scrutiny, but it is not determinative of the outcome.
> 133. The length of the delay functions as a contextual indicator but not a determinative factor. It alerts the court to the degree of rigour required in examining the explanation, yet the ultimate focus remains on whether "sufficient cause" has been shown. The doctrine thereby preserves both the integrity of statutory timelines and the imperative of doing justice in deserving cases."

13 In light of the aforesaid evaluation of law on the subject, involving Section 14 of the Limitation Act, when we applied the same to the facts in hand, we have noted that the Appellant approached Punjab & Haryana High Court by filing Writ Petition raising a challenge to the Notification dated 12/03/2015 as well as the order making the attachment absolute and ordering sale of properties passed on 04/03/2016 and the jurisdiction of the High Court was invoked on the premise that all the properties under attachment were situated within its jurisdiction. The registered office of the Appellant is also situated within its jurisdiction and on a presumption that no cause of action has survived in State of Maharashtra except that the impugned orders are passed by the Government of Maharashtra, the Punjab and Haryana High Court

7 2025 SCC OnLIne 1969

was approached. The proceedings were entertained and status quo order was passed on 09/06/2016 and the said order continued till the Petition was finally disposed of on 06/05/2024 in the wake of the order dated 25/10/2017 passed in another Civil Writ Petition No.11189/2015 enabling the Appellant to file proceedings before Bombay High Court. The benefit of this period is sought to be taken by the Appellant by relying upon Section 14 of the Limitation Act, the present proceedings being filed on 04/12/2024.

14 In the delay that has occurred, large number of days have contributed in the wake of the pendency of the proceedings before Punjab & Haryana High Court and thereafter there is only a delay of 379 days, for which also explanation is offered and the same is described to be procedural in nature as various steps were required to be taken by consulting the Advocates in Mumbai for filing the appropriate proceedings. In any case, the Punjab & Haryana High Court itself indicated that the petitioner should approach the appropriate forum and the period during which the proceedings were pending before it, shall receive due consideration.

The intention of legislature in enacting Section 14 being to advance substantial justice and not to punish the litigant for availing the remedy before a Court/forum which actually is not entitled to grant the relief sought for, it is imperative for the Court to adopt an approach of consideration of the matter on merits rather than defeating the claim on the ground of technicality and particularly when the Punjab & Haryana High

Court had entertained the grievance of the Petitioner and granted the relief and while it disposed of the proceedings, with liberty being granted to file proceeding before the appropriate forum where it would lie, the High Court itself indicated that the benefit of this Section deserve to be extended to the Petitioner.

15 Though an argument is strongly staked before us that the proceedings were being followed without due diligence, we see no reason to accept the same, as 'due diligence' cannot be measured by absolute standards, but is a measure of prudence or activity expected from an ordinary, reasonable and prudent person under the circumstances, and as we find that considering that the properties were situated in Punjab & Haryana and the Appellant was also having its office in Punjab, the proceedings were filed before Punjab & Haryana High Court and according to us there was not lack of diligence on part of the Appellant. Apart from this , as far as 'good faith' is concerned, since it is defined in Section 2(h) of the Limitation Act, to convey that nothing shall be deemed to be in 'good faith' , which is not done with due care and attention and the case being filed in a Court which was presumed to have jurisdiction, but on realising that the proceedings are not maintainable before the said Court as the impugned notification was issued by Government of Maharashtra, the Appellant was relegated to approach the appropriate Court and do not label this action as lack of 'good faith'. Merely because the proceedings were pending before Punjab & High Court for a considerable length of time and for it the Appellant definitely cannot take the blame, in absence of specific attributes of 'due

diligence' and 'good faith' we do not find the Appellant to be at fault, as we find that the conditions applicable for Section 14 being prior and subsequent proceedings prosecuted by the same party and being prosecuted with diligence and good faith in a Court which could not deliver due to defect of jurisdiction, the application deserve rejection only on that count.

Another contention that the earlier proceedings and later proceedings must relate to the same matter in issue, we find the observations of the Apex Court in ***Commissioner, Madhya Pradesh Housing Board & Ors. vs. Mohanlal & Company***[8], to be relevant as the Court observed thus :-

> "16. From the aforesaid passage, it is clear as noonday that there has to be a liberal interpretation to advance the cause of justice. However, it has also been laid down that it would be applicable in cases of mistaken remedy or selection of a wrong forum. As per the conditions enumerated, the earlier proceeding and the latter proceeding must relate to the same matter in issue. It is worthy to mention here that the words "matter in issue" are used under Section 11 of the Code of Civil Procedure, 1908. As has been held in Ramadhar Shrivas V. Bhagwandas the said expression connotes the matter which is directly and substantially liberal interpretation placed under Section 14 of the Act, the matter in issue in the earlier proceeding and the latter proceeding has to be conferred requisite importance. That apart, the prosecution of the prior proceeding should also show due diligence and good faith."

16 In the present case, we find that before the Punjab High Court the challenge was raised to the Notification issued under Section 4, issued under MPID Act, with a declaration that the property of the accused persons deserve attachment and the 'matter in issue' being illegal attachment of the properties of the Appellant, initially provisionally by the impugned notification which was subject matter of challenge and later confirmed by the

8 (2016) 14 SCC 199

order which is now impugned in the present proceedings alongwith initial notification , we find that the 'matter in issue' is the same i.e. attachment of the properties of the Appellant.

In the wake of the aforesaid, we are satisfied that the delay in filing the Appeal deserve to be condoned and the barg/ restrictions in Section 14 of the Limitation Act, 1963 do not work out against the Appellant. Interim Application is, therefore, made absolute by granting prayer clause (a), which reads thus :

(a) Condone the delay of 7 years 213 days in fling of the Criminal Appeal before this Hon'ble Court against the Order dated March 4, 2016 (impugned order).

[SHYAM C. CHANDAK, J] [BHARATI DANGRE, J]