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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ CRL.L.P. 565/2018 & CRL.M.A. 31096/2018  
CENTRAL BUREAU OF INVESTIGATION.....Petitioner

Through: Mr. Ravi Sharma, SPP for  
CBI with Mr. Swapnil  
Choudhary, Mr. Ishann  
Bhardwaj, Mr. Shivam  
Mishra and Ms. Madhulika  
Rai Sharma, Advocates

versus

ATUL DIKSHIT & ORS. ....Respondents  
Through: None

**CORAM:**  
**HON'BLE MR. JUSTICE AMIT MAHAJAN**

**ORDER**

% **26.05.2025**

1. The present petition is filed under Section 378 of the Code of Criminal Procedure, 1973 ('CrPC') seeking leave to appeal against the common judgment dated 07.10.2017 (hereafter '**impugned judgment**'), in RC No. 21A/2015/CBI/ACB/ND, whereby the learned Special Judge (hereafter 'Trial Court'), CBI, Patiala House Court, acquitted the respondents of the offences under Sections 120B read with Section 420 of the Indian Penal Code, 1860 ('IPC') and Section 13(2) read with Section 13(1)(d) of the Prevention of Corruption Act, 1988.
2. The petitioner has also filed an application, that is, CRL.M.A. 31096/2018, under Section 5 of the Limitation Act, 1963 read with Section 482 of the CrPC seeking condonation of delay of 215 days in filing the present petition.
3. The case of the prosecution is that Respondent Nos. 1 and



2 being public servants, that is, Commissioner of Customs, ICD, Tughlakabad and Deputy Commissioner, ICD, Tughlakabad, respectively, abused their official positions and did not suspend the duty drawback to the tune of ₹74.50 crores to be released to the exporting firms namely– M/s G.D. Mangalam Exim Pvt. Ltd., M/s Sidh Designers Pvt. Ltd., M/s Yogmaya Traders Pvt. Ltd., M/s Konark Exim Pvt. Ltd. and M/s DSM International, which were being controlled by Respondent no. 3, despite the direction of the Directorate of Revenue Intelligence to withhold the same *vide* its letter dated 31.03.2014. It is alleged that the exports made by these firms were highly over valued as there was a huge difference in the declared prices in India and abroad, thereby causing wrongful loss to the Government Exchequer.

4. At the outset, it is relevant to note that this Court, by order dated 11.04.2019, had issued notice to all the respondents on the main petition as well as on the application seeking condonation of delay. The order dated 04.09.2023 records that notices could not be issued for want of process fee, for which the petitioner was directed to take requisite steps within a period of one week, to issue fresh notice, however the same has not been done till date.

5. The present petition was filed with an inordinate delay of 215 days. In addition, as noted above there is inordinate delay on part of CBI in taking steps for service of notice on the Respondents.

6. It is well-settled that each day of the delay is required to be explained. In the present case, no worthy reasons are pleaded in the application which would entitle the petitioner for condonation



of delay. Standard explanation is pleaded in the application that the delay was not deliberate and was caused due to procedural requirements that involve approvals from different departments and officials at various levels. Only a chart mentioning the dates indicating the movement of file has been noted in the application, however, no reason has been given as to why the petition could not be filed on time.

7. The relevant paragraphs of the application seeking condonation of delay are set out below:

*“2. That the present Appeal is being filed after the expiry of the limitation period due to the time taken in following the procedures to take opinion from all the concerned persons including Law Officer/s, Supervisory Officers of the Department and permission of concerned Ministry etc.*

*3. That the procedural requirement to comply with the statutory requirement involves different departments and at various levels and thus there has been delay of 215 days in preferring the present appeal and applications for leave to appeal. The bonafide and genuine reasons for the delay are enumerated as under:-*

| NO. | DETAILS                                           | DATES      |
|-----|---------------------------------------------------|------------|
| 1.  | Impugned judgment passed                          | 07.10.2017 |
| 2.  | Certified copy applied                            | 09.10.2017 |
| 3.  | Certified copy received                           | 14.10.2017 |
| 4.  | Case processed in branch office                   | 30.10.2017 |
| 5.  | Case forwarded to Head Office for its opinion     | 09.12.2017 |
| 6.  | Head office order recommending filing of petition | 15.03.2018 |
| 7.  | Case sent to DoPT                                 | 18.04.2018 |
| 8.  | Decision taken by DoPT to file Petition           | 18.05.2018 |
| 9.  | Decision of DoPT received in CBI office           | 29.05.2018 |
| 10. | Upon legal vetting and final approval filed       |            |

*6. That the delay, referred to herein, has been bonafide and not intentional or willful.”*

8. The present petition was thereafter filed on 16.08.2018,



after a period of 313 days from the passing of the impugned judgement.

9. The Hon'ble Apex Court has frowned upon following of such practices by the Government departments. The Hon'ble Apex Court, in the case of ***Postmaster General v. Living Media India Ltd. : (2012) 3 SCC 563***, had held that the Government cannot claim to have a separate period of limitation when the Department is possessed with competent persons familiar with court proceedings. The delay cannot be condoned mechanically merely because the Government or a wing of the Government is a party before the Court. The Hon'ble Apex Court had rejected the claim on account of impersonal machinery and bureaucratic methodology of making several notes in view of the modern technologies being used and available.

10. The Hon'ble Supreme Court in the case of ***State of M.P. v. Bherulal : (2020) 10 SCC 654***, while observing the irony that no action is taken against the officers who sit on files and do nothing under a presumption that the court would condone the delay in routine, held as under:

*"6. We are also of the view that the aforesaid approach is being adopted in what we have categorised earlier as "certificate cases". The object appears to be to obtain a certificate of dismissal from the Supreme Court to put a quietus to the issue and thus, say that nothing could be done because the highest Court has dismissed the appeal. It is to complete this formality and save the skin of officers who may be at default that such a process is followed. We have on earlier occasions also strongly deprecated such a practice and process. There seems to be no improvement. The purpose of coming to this Court is not to obtain such certificates and if the Government suffers losses, it is time when the officer concerned responsible for the same bears the consequences. The irony is that in none of the cases any action is taken against the officers, who sit on the files and do nothing. It is*



*presumed that this Court will condone the delay and even in making submissions, straightaway the counsel appear to address on merits without referring even to the aspect of limitation as happened in this case till we pointed out to the counsel that he must first address us on the question of limitation.”*

11. Therefore, unless a reasonable and acceptable explanation for the delay is provided, the same cannot be accepted. As held by the Hon’ble Apex Court, the Government departments are under such obligation to ensure that they perform their duties with diligence and commitment.

12. In the present case, no cogent reasons have been given for the Court to accept that the petitioner was prevented from filing the petition within the period of limitation. Lackadaisical attitude of officials and inefficiency of the State mechanism alone cannot be deemed to be sufficient reason to warrant condonation of delay. As noted above, from 15.03.2018 to 18.04.2018 time was taken to send the file to DoPT, and thereafter when the decision of the DoPT was received on 29.05.2018, the present petition came to be filed after more than two months. No explanation has been provided for the delay.

13. In view of the above, this Court does not consider apposite to accede to the request of the petitioner to condone the delay in filing the present petition.

14. The leave petition along with the pending application for condonation of delay are dismissed in the aforesaid terms.

**AMIT MAHAJAN, J**

**MAY 26, 2025**