HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

D.B. Civil Misc. Appeal No. 2689/2024

Dilip Singhvi S/o Shri Bachhraj Singhvi, Aged About 60 Years, R/o D-160, Shastri Nagar, Jodhpur, Rajasthan.

----Appellant

Versus

1. The Deputy Commissioner Of Income Tax (Bpu), Jaipur, Room No. 103-Na, New Central Revenue Building, Statue Circle, Jaipur, Rajasthan.
2. Shri Ramjiyavan S/o Shri Bekaru, R/o Village Phoolpur, Post Kalwari, District Basti, Uttar Pradesh.

----Respondents

Connected With

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2. Shri Ramjiyavan S/o Shri Bekaru, R/o Village Phoolpur, Post Kalwari, Dist. Basti, Uttar Pradesh

----Respondents

D.B. Civil Misc. Appeal No. 2688/2024

Dilip Singhvi S/o Shri Bachhraj Singhvi, Aged About 60 Years, R/o D-160, Shastri Nagar, Jodhpur,raj.

----Appellant

Versus

1. The Deputy Commissioner Of Income Tax (Bpu), Jaipur, Room No. 103, Na, New Central Revenue Building, Statue Circle, Jaipur,raj.
2. Shri Ramjiyavan S/o Shri Bekaru, R/o Village Phoolpur, Post Kalwari, Dist. Basti, Uttar Pradesh

----Respondents

D.B. Civil Misc. Appeal No. 2691/2024

Dilip Singhvi S/o Shri Bachhraj Singhvi, Aged About 60 Years, R/o D-160, Shastri Nagar, Jodhpur, Rajasthan.

----Appellant

Versus

1. The Deputy Commissioner Of Income Tax (Bpu), Jaipur, Room No. 103-Na, New Central Revenue Building, Statue Circle, Jaipur, Rajasthan.
2. Shri Ramjiyavan S/o Shri Bekaru, R/o Village Phoolpur, Post Kalwari, District Basti, Uttar Pradesh.

----Respondents

D.B. Civil Misc. Appeal No. 2692/2024

Dilip Singhvi S/o Shri Bachhraj Singhvi, Aged About 60 Years, R/o D-160, Shastri Nagar, Jodhpur, Rajasthan.

----Appellant

Versus

1. The Deputy Commissioner Of Income Tax (Bpu), Jaipur, Room No. 103-Na, New Central Revenue Building, Statue Circle, Jaipur, Rajasthan.
2. Shri Ramjiyavan S/o Shri Bekaru, R/o Village Phoolpur, Post Kalwari, District Basti, Uttar Pradesh.

----Respondents

D.B. Civil Misc. Appeal No. 2693/2024

Dilip Singhvi S/o Shri Bachhraj Singhvi, Aged About 60 Years, R/o D-160, Shastri Nagar, Jodhpur, Rajasthan.

----Appellant

Versus

1. The Deputy Commissioner Of Income Tax (Bpu), Jaipur, Room No. 103-Na, New Central Revenue Building, Statue Circle, Jaipur, Raj.
2. Shri Ramjiyavan S/o Shri Bekaru, Village Phoolpur, Post Kalwari, Distt. Basti, Uttar Pradesh.

----Respondents

D.B. Civil Misc. Appeal No. 2694/2024

Dilip Singhvi S/o Shri Bachhraj Singhvi, Aged About 60 Years, R/o D-160, Shastri Nagar, Jodhpur, Raj.

----Appellant

Versus

1. The Deputy Commissioner Of Income Tax (Bpu), Jaipur, Room No. 103-Na, New Central Revenue Building, Statue Circle, Jaipur, Raj.
2. Shri Ramjiyavan S/o Shri Bekaru, Village Phoolpur, Post Kalwari, Distt. Basti, Up.

----Respondents

For Appellant(s)	:	Mr. Nikhil Dungawat
For Respondent(s)	:	Mr. K.K. Bissa

HON'BLE DR. JUSTICE PUSHPENDRA SINGH BHATI
HON'BLE MR. JUSTICE CHANDRA PRAKASH SHRIMALI

Order

03/02/2025

1. Learned counsel for the appellant Mr. Nikhil Dungawat submits that all the appeals pertain to the proceedings initiated under the Prohibition of Benami Properties Transactions Act, 1988 (for short, 'the PBPT Act') by the respondent No.1 - Deputy

Commissioner of Income Tax (BPU), Jaipur while acting as Initiating Officer.

1.1. Mr. Dungawat also submits that the controversy involved in the present appeals pertains to the provisional attachment orders passed by the Appropriate Authorities under Section 24(5) of the PBPT Act in the year 2019, which were subsequently revoked by the Adjudicating Authorities under Section 26(3) of the PBPT Act in the year 2021.

1.2. Learned counsel for the appellant submits that such revocation orders were challenged by the respondents herein by filing a joint appeal in November 2021 before the Appellate Tribunal; however, the Appellate Tribunal dismissed the said appeal on 15.02.2023 while granting liberty to them to file separate appeals for each reference, recognizing the distinct nature of the attachment orders and ensuring separate explanation of the factual matrix for each.

1.3. Furthermore, learned counsel for the appellant submits that ones the specific order dated 15.02.2023 was there, it was the duty of the respondents to file separate appeals; however, without doing so, they sought and were granted time extension of three weeks' on 27.07.2023, which set a deadline of 17.08.2023, but despite this, they failed to do so and even then, all the appeals were brought before the Appellate Tribunal after a delay running from 50 to 200 days.

1.4. Learned counsel for the appellant submits that the application for condonation of delay does not constitute any reasons as to why the delay has been caused and, thus, it is a fit case where the strict interpretation of the limitation law must be

taken. He also submits that the reasons of delay are vague, unspecific and misleading.

1.5. Learned counsel for the appellants submits that the transfers order of the Initiating Officer has been mentioned but such order has not been brought on record. He also submits that there was a specific deployment of the Officers assigned to such duties has not been placed on record. He further submits that the failure to consult and obtain opinion of Office of the SPP is an ambiguous averment because the dates of such requests sent to the SPP for consideration have not been given.

1.6. Learned counsel for the appellant has placed relied on the following decisions :-

(i) Judgment dated 24.02.2012 rendered by Hon'ble the Supreme Court in ***Office of the Chief Post Master General & Ors. Vs. Living Media India Ltd. & Anr. (Civil Appeal Nos.2474-2475 of 2012)*** reported in ***AIR 2012 SC 1506***, wherein it is held as under:-

> "8) Though the learned ASG heavily relied on the above said decisions and the principles laid down, on going through all the factual details, we are of the view that there is no quarrel about the propositions inferred therein. However, considering the peculiar facts and circumstances of each case, this Court either condoned the delay or upheld the order of the High Court condoning the delay in filing appeal by the State. While keeping those principles in mind, let us consider the reasonings placed by the Postal Department with regard to the same.
>
> 9) In view of the stand taken by the Postal Department as to the reasons for the delay and the serious objections of the respondents, it is desirable to extract the entire statement as placed in the form of "better affidavit" by the officer of the appellant-Department:-

"I, Aparajeet Pattanayak presently posted as SSRM, Air Mail Sorting Division, New Delhi, do hereby solemnly affirm and state as under:-

1) In the official capacity mentioned above, I am acquainted with the facts of the case on the basis of the information derived from the record.

2) On the last date of hearing i.e. 05.12.2011 this Hon'ble Court was pleased to allow the petitions to file better affidavit in support of the application for condonation of delay in filing Special Leave Petition.

3) It is submitted that the delay is not intentional but is on account of the departmental/administrative procedures involved in for filing the petition for Special Leave Petition. It is submitted that unlike the private litigant the matters relating to government are required to be considered at various levels and then only a decision is taken.

4) In the present case it would be evident from the following that delay has been caused due to unavoidable circumstances:-

11.09.2009	Date of judgment in LPA Nos. 418/2007 and 1006/2007.
29.10.2009	Certified copy of judgment not received from the Government counsel and hence copy of judgment was downloaded from the web site of Delhi High Court and office note was put by ASP (Court) proposing to refer the matter to Postal Directorate for opinion and further course of action for approval of the Chief Postmaster General, Delhi.
12.11.2009	Chief Postmaster General Delhi approved to refer the matter to Directorate.
16.12.2009	Directorate desired to submit legal opinion and certified copy of judgment.
08.01.2010	The counsel appearing on behalf of the petitioner had applied for the certified copy of the impugned judgment and order and the same was received by the Department on 08.01.2010.
11.01.2010	The desired documents supplied to Directorate.
25.01.2010	Directorate desired to submit copies of original writ petition filed by the party, counter affidavit thereto, copies of appeals filed by DOP & counter reply thereto.
12.02.2010	The desired documents supplied to Directorate.
17.02.2010	Directorate desired to send an official/officer well conversant with the case.

15.03.2010	Directorate asked to depute an officer well conversant with the case to collect the UO Note along with other documents to pursue the matter with Mr. Suresh Chandra Additional Legal Advisor.
06.04.2010	Shri Suresh Chandra, Additional Legal Advisor was contacted on 06.04.2010 and the matter was briefed thoroughly by ASP (Court).
25.06.2010	Case file collected from Directorate and handed over to Central Agency Section on 25.06.2010 under diary No. 1865/2010 dated 25.06.2010 as per advice of Additional Legal Advisor.
26.06.2010 to 30.06.2010	Central Agency Section sent the file back to the Postal Department with directions to send the same through Ministry of Law and Justice.
01.07.2010 to 10.09.2010	After receiving the file through proper channel. Central Agency Section sent the file to Ld ASG for his considered opinion and Ld. Additional Solicitor General opined that it is a fit case for filing the Special Leave Petition.
11.09.2010 to 30.09.2010	On receiving the opinion of Ld. ASG the file was sent to Central Agency for drafting the Special Leave Petition.
01.10.2010	Directorate informed that ASG had considered the case and found it fit for Special Leave Petition.
15.11.2010	The panel counsel prepared the draft of Special Leave Petition and submitted the draft Special Leave Petition with file to Central Agency Section for further steps. The draft Special Leave Petition was forwarded to the Department by Central Agency Section for vetting. After factual verification, the draft Special Leave Petition was returned to Central Agency Section for typing and preparation of Paper Book which also took some time.
04.01.2011	Special Leave Petition remained pending due to non-availability of disputed magazines of Reader’s Digest and India Today. Hence, ASG was requested to intervene and direct Shri Akash Pratap who handled the case to provide the magazines.

14.01.2011	Shri A.K. Sharma was requested to arrange to collect the above magazines from the record of Delhi High Court.
31.01.2011	SSRM Delhi Sorting Division was authorized to sign the affidavit on behalf of the respondent.
10.02.2011	Special Leave Petition filed in Supreme Court.

5. It is submitted that it is evident from the foregoing reasons that the delay caused in filing the petition was result of all the necessary and unavoidable office formalities and was bonafide and not deliberate or intentional and the petitioner was prevented by sufficient cause from filing the petition within the period of limitation.

6. It is further submitted that the petitioner humbly seeks leave to draw the kind attention of this Hon'ble Court to the views expressed by this Hon'ble Court that liberal approach may be adopted and that the Court should not take too strict and pedantic stand which will cause injustice while considering the application for condonation of delay, in terms of its judgments in the case of Collector Land Acquisition, Anantnag & Anr. Vs. Mst. Katiji & Ors. and Bhag Singh & Anr. Vs. Major Daljeet Singh & Ors. It is submitted that the principles for condonation of delay laid down in the above cited cases may therefore be adopted in the present case also.

7. This Hon'ble Court in G. Ramegowda Vs. Special Land Acquisition Officer, (1998) 2 SCC 142 laid down that the expression sufficient cause in Section 5 of the Limitation Act, 1963 must receive a liberal construction so as to advance substantial justice where no gross negligence or deliberate inaction of lack of bonafide is imputable to the party seeking condonation of delay.

8. In the matter of State of Haryana vs. Chandra Mani, reported in (1996) 3 SCC 132, this Hon'ble Court observed and laid down as follows:-

> "when the State is an applicant, praying for condonation of delay, it is common knowledge that on account of impersonal machinery and the inherited bureaucratic methodology imbued with the note- making, file-pushing and passing-on-the-buck ethos, delay on the part of the State is less difficult to understand but more difficult to approve, but the State represents collective cause of the community. It is axiomatic that decisions are taken by officers/agencies proverbially at slow pace and encumbered process of pushing the files from table to table and keeping it on the table for considerable time causing delay - intentional or otherwise - is a routine. Considerable delay of procedural red-tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default, no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression "sufficient cause" should,

therefore, be considered with pragmatism in justice- oriented approach rather than the technical detection of sufficient cause for explaining every day's delay.

9. This Hon'ble Court in Union of India vs. Manager, Jain and Associates, 2001 (3) SCC 277 decided on 06.02.2011 has held that delay ought to be condoned when sufficiently explained particularly where party seeking condonation is the Government. It is further submitted that the Hon'ble High Court ought to have condoned the delay in considering the public revenue involved and also because of the genuine difficulties and circumstances beyond the control of the petitioner, on account of which Special Leave Petition could not be filed within the time."

10) … … …

11) We have already extracted the reasons as mentioned in the "better affidavit" sworn by Mr. Aparajeet Pattanayak, SSRM, Air Mail Sorting Division, New Delhi. It is relevant to note that in the said affidavit, the Department has itself mentioned and is aware of the date of the judgment of the Division Bench of the High Court in LPA Nos. 418 and 1006 of 2007 as 11.09.2009. Even according to the deponent, their counsel had applied for the certified copy of the said judgment only on 08.01.2010 and the same was received by the Department on the very same day. There is no explanation for not applying for certified copy of the impugned judgment on 11.09.2009 or at least within a reasonable time. The fact remains that the certified copy was applied only on 08.01.2010, i.e. after a period of nearly four months. In spite of affording another opportunity to file better affidavit by placing adequate material, neither the Department nor the person in-charge has filed any explanation for not applying the certified copy within the prescribed period. The other dates mentioned in the affidavit which we have already extracted, clearly show that there was delay at every stage and except mentioning the dates of receipt of the file and the decision taken, there is no explanation as to why such delay had occasioned. Though it was stated by the Department that the delay was due to unavoidable circumstances and genuine difficulties, the fact remains that from day one the Department or the person/persons concerned have not evinced diligence in prosecuting the matter to this Court by taking appropriate steps.

12) It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

13) In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red-tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay. Accordingly, the appeals are liable to be dismissed on the ground of delay.”

(ii) Judgment dated 03.04.2024 rendered by Hon'ble the Supreme Court in ***Union of India & Anr. Vs. Jahangir Byramji Jeejeebhoy (D) Through His LR [Arising out of SLP (Civil) No.21096/2019] : 2024 INSC 262***, wherein it is held as under:-

> "26. The length of the delay is a relevant matter which the court must take into consideration while considering whether the delay should be condoned or not. From the tenor of the approach of the appellants, it appears that they want to fix their own period of limitation for instituting the proceedings for which law has prescribed a period of limitation. Once it is held that a party has lost his right to have the matter considered on merits because of his own inaction for a long, it cannot be presumed to be non-deliberate delay and in such circumstances of the case, he cannot be heard to plead that the substantial justice deserves to be preferred as against the technical considerations. While considering the plea for condonation of delay, the court must not start with the merits of the main matter. The court owes a duty to first ascertain the bona fides of the explanation offered by the party seeking condonation. It is only if the sufficient cause assigned by the litigant and the opposition of the other side is equally balanced that the court may bring into aid the merits of the matter for the purpose of condoning the delay.
>
> 27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the 'Sword of Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.
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> 28. … … …
>
> 29. In ***Oriental Aroma Chemical Industries Limited v. Gujarat Industrial Development Corporation***, (2010) 5 SCC 459, this Court rejected the application for condonation of delay of 4 years in filing an application to set aside an exparte decree on the ground that the

explanation offered for condonation of delay is found to be not satisfied.

30. In ***Postmaster General and others v. Living Media India Limited***, (2012) 3 SCC 563, this Court, while dismissing the application for condonation of delay of 427 days in filing the Special Leave Petition, held that condonation of delay is not an exception and it should not be used as an anticipated benefit for the government departments. In that case, this Court held that unless the Department has reasonable and acceptable reason for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process cannot be accepted. In Para Nos. 25, 26, 27, 28, and 29 respectively, this Court dealt with the scope of 'sufficient cause' and held as follows:

> *"25. We have already extracted the reasons as mentioned in the "better affidavit" sworn by Mr. Aparajeet Pattanayak, SSRM, Air Mail Sorting Division, New Delhi. It is relevant to note that in the said affidavit, the Department has itself mentioned and is aware of the date of the judgment of the Division Bench of the High Court in Office of the Chief Postmaster v. Living Media India Ltd. [(2009) 8 AD 201 (Del)] as 11-9-2009. Even according to the deponent, their counsel had applied for the certified copy of the said judgment only on 8-1-2010 and the same was received by the Department on the very same day. There is no explanation for not applying for the certified copy of the impugned judgment on 11-9-2009 or at least within a reasonable time. The fact remains that the certified copy was applied for only on 8-1-2010 i.e. after a period of nearly four months.*
>
> *26. In spite of affording another opportunity to file better affidavit by placing adequate material, neither the Department nor the person-in-charge has filed any explanation for not applying the certified copy within the prescribed period. The other dates mentioned in the affidavit which we have already extracted, clearly show that there was delay at every stage and except mentioning the dates of receipt of the file and the decision taken, there is no explanation as to why such delay had occasioned. Though it was stated by the Department that the delay was due to unavoidable circumstances and genuine difficulties, the fact remains that from day one the Department or the person/persons concerned have not evinced diligence in prosecuting the matter to this Court by taking appropriate steps.*

27. It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

28. Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bona fides, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody, including the Government.

29. In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bona fide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural red tape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for the government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few."

31. In the case of ***Lanka Venkateswarlu (D) by LRs v. State of Andhra Pradesh & others***, (2011) 4 SCC 363, this Court made the following observations:

"20. In N. Balakrishnan, [(1998) 7 SCC 123] this Court again reiterated the principle that: (SCC p. 127, para 11)

> *"11. Rules of limitation are not meant to destroy the rights of parties. They are meant to see that [the] parties do not resort to dilatory tactics, but seek their remedy promptly."*

21 to 27.....…

28. We are at a loss to fathom any logic or rationale, which could have impelled the High Court to condone the delay after holding the same to be unjustifiable. The concepts such as "liberal approach", "justice oriented approach", "substantial justice" cannot be employed to jettison the substantial law of limitation.

Especially, in cases where the court concludes that there is no justification for the delay. In our opinion, the approach adopted by the High Court tends to show the absence of judicial balance and restraint, which a Judge is required to maintain whilst adjudicating any lis between the parties. We are rather pained to notice that in this case, not being satisfied with the use of mere intemperate language, the High Court resorted to blatant sarcasms. 29. The use of unduly strong intemperate or extravagant language in a judgment has been repeatedly disapproved by this Court in a number of cases. Whilst considering applications for condonation of delay under Section 5 of the Limitation Act, the courts do not enjoy unlimited and unbridled discretionary powers. All discretionary powers, especially judicial powers, have to be exercised within reasonable bounds, known to the law. The discretion has to be exercised in a systematic manner informed by reason. Whims or fancies; prejudices or predilections cannot and should not form the basis of exercising discretionary powers."

32. … … …

33. In the case of ***Esha Bhattacharjee v. Managing Committee of Raghunathpur Nafar Academy & Others***, (2013) 12 SCC 649, this Court made the following observations:

"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 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.

22. To the aforesaid principles we may add some more guidelines taking note of the present day scenario. They are:

22.1. (a) An application for condonation of delay should be drafted with careful concern and not in a haphazard manner harbouring the notion that the courts are required to condone delay on the bedrock of the principle that adjudication of a lis on merits is seminal to justice dispensation system.

22.2. (b) An application for condonation of delay should not be dealt with in a routine manner on the base of individual philosophy which is basically subjective.

22.3. (c) Though no precise formula can be laid down regard being had to the concept of judicial discretion, yet a conscious effort for achieving consistency and collegiality of the adjudicatory system should be made as that is the ultimate institutional motto.

22.4. (d) The increasing tendency to perceive delay as a non-serious matter and, hence, lackadaisical propensity can be exhibited in a nonchalant manner requires to be curbed, of course, within legal parameters."

34. In view of the aforesaid, we have reached to the conclusion that the High Court committed no error much less any error of law in passing the impugned order. Even

otherwise, the High Court was exercising its supervisory jurisdiction under Article 227 of the Constitution of India."

(iii) Judgment dated 08.04.2024 rendered by Hon'ble the Supreme Court in ***Pathapati Subba Reddy (Died) by L.Rs. & Ors. Vs. The Special Deputy Collector (LA) [Special Leave Petition (Civil) No.31248/2018] : 2024 INSC 286***, wherein it is held as under:-

"**26.** On a harmonious consideration of the provisions of the law, as aforesaid, and the law laid down by this Court, it is evident that:

(i) Law of limitation is based upon public policy that there should be an end to litigation by forfeiting the right to remedy rather than the right itself;

(ii) A right or the remedy that has not been exercised or availed of for a long time must come to an end or cease to exist after a fixed period of time;

(iii) The provisions of the Limitation Act have to be construed differently, such as Section 3 has to be construed in a strict sense whereas Section 5 has to be construed liberally;

(iv) In order to advance substantial justice, though liberal approach, justice-oriented approach or cause of substantial justice may be kept in mind but the same cannot be used to defeat the substantial law of limitation contained in Section 3 of the Limitation Act;

(v) Courts are empowered to exercise discretion to condone the delay if sufficient cause had been explained, but that exercise of power is discretionary in nature and may not be exercised even if sufficient cause is established for various factors such as, where there is inordinate delay, negligence and want of due diligence;

(vi) Merely some persons obtained relief in similar matter, it does not mean that others are also entitled to the same benefit if the court is not satisfied with the cause shown for the delay in filing the appeal;

(vii) Merits of the case are not required to be considered in condoning the delay; and

(viii) Delay condonation application has to be decided on the parameters laid down for condoning the delay and condoning the delay

for the reason that the conditions have been imposed, tantamounts to disregarding the statutory provision.

27. … … …

28. … … …

29. The other decision relied upon in this regard is the case of ***Imrat Lal & Ors. vs. Land Acquisition Collector & Ors.***[10]. In this case also the matter was regarding determination of compensation for the acquired land and there was a delay of 1110 days in filing the appeal for enhancement of compensation. Despite findings that no sufficient cause was shown in the application for condoning the delay, this Court condoned the delay in filing the appeal as a large number of similarly situate persons have been granted relief by this Court.

30. … … …

31. Learned counsel for the petitioners next submitted on the basis of additional documents that in connection with the land acquisition in some other Special Leave Petitions, delay was condoned taking a lenient view and the compensation was enhanced with the rider that the claimants shall not be entitled for statutory benefits for the period of delay in approaching this Court or the High Court. The said orders do not clearly spell out the facts and the reasons explaining the delay in filing the appeal(s) but the fact remains that the delay was condoned by taking too liberal an approach and putting conditions which have not been approved of by this Court itself. In the absence of the facts for getting the delay condoned in the referred cases, vis-à-vis, the facts of this case, it cannot be said that the facts or the reasons of getting the delay condoned are identical or similar. Therefore, we are unable to exercise our discretionary power of condoning the delay in filing the appeal on parity with the above order(s).

32. Moreover, the High Court, in the facts of this case, has not found it fit to exercise its discretionary jurisdiction of condoning the delay. There is no occasion for us to interfere with the discretion so exercised by the High Court for the reasons recorded. First, the claimants were negligent in

pursuing the reference and then in filing the proposed appeal. Secondly, most of the claimants have accepted the decision of the reference court. Thirdly, in the event the petitioners have not been substituted and made party to the reference before its decision, they could have applied for procedural review which they never did. Thus, there is apparently no due diligence on their part in pursuing the matter. Accordingly, in our opinion, High Court is justified in refusing to condone the delay in filing the appeal.

33. In the above situation, we do not deem it proper and necessary to interfere with the decision of the High Court refusing to condone the inordinate delay in filing the proposed appeal."

(iv) Order dated 14.02.2022 rendered by the Division Bench of this Court in the case of ***State of Rajasthan Vs. M/s. Dev Ganga Enterprises (D.B. Special Appeal Writ No.493/2019)***, wherein it is held as under:-

"Though the case is listed for order we find that there is long and unexplained delay of 318 days in filing the appeal. In order to explain delay, all that has been stated in the application is as below

"2. The the obtaining the copy of the order dated 16.02.2018 legal opinion of the Government Counsel was given, which accordingly was forwarded to higher authorities.

3. That the matter was then considered by the Committee and it was decided to file appeal in the order dated 16.02.2018.

4. That after grant of sanction the officer in-charge was appointed in the matter.

5. That the officer-in-charge after receiving the information contacted the office of Additional Advocate General for drafting the special appeal on 06.10.2018 and on that day some information was sought by the office of Additional Advocate General, which immediately was supplied.

6. That thereafter the office of the Additional Advocate General drafted the special appeal with no further delay.

7. That delay in filing the special appeal is unintentional and bona-fide and an important question of law is involved in the case which has a far reaching

effect and therefore in interest of justice, this application of condonation of delay may be allowed."

In two recent judicial pronouncement Hon'ble Supreme Court has deprecated the practice of the delay on the part of the state authority in filing appeal after long delay as a result of indifference and indolent attitude on the part of the state authorities in dealing with files in their offices.

In the case of **State of Madhya Pradesh & Ors. V. Bherulal, 2020 SCC Online SC 849**, it was found that the appeal filed by the State was with delay of 663 days. The cause shown for inordinate delay in that case was due to unavailability of documents and the process of arranging documents and also a reference to bureaucratic process works. In the aforesaid factual context, Their Lordships of the Supreme Court, referring to its earlier decision, observed as below-

> "3. No doubt, some leeway is given for the Government inefficiencies but the sad part is that the authorities keep on relying on judicial pronouncements for a period of time when technology had not advanced and a greater leeway was given to the Government (Collector, Land Acquisition, Anantnag & Anr vs. Mst. Katiji & Ors. (1987) 2 SCC 107). This position is more than elucidated by the judgment of this Court in Office of the Chief Post Master General & Ors. v. Living Media India Ltd. & Anr. (2012) 3 SCC 563 where the Court observed as under:
>
> > "12) It is not in dispute that the person(s) concerned were well aware or conversant with the issues involved including the prescribed period of limitation for taking up the matter by way of filing a special leave petition in this Court. They cannot claim that they have a separate period of limitation when the Department was possessed with competent persons familiar with court proceedings. In the absence of plausible and acceptable explanation, we are posing a question why the delay is to be condoned mechanically merely because the Government or a wing of the Government is a party before us.

Though we are conscious of the fact that in a matter of condonation of delay when there was no gross negligence or deliberate inaction or lack of bonafide, a liberal concession has to be adopted to advance substantial justice, we are of the view that in the facts and circumstances, the Department cannot take advantage of various earlier decisions. The claim on account of

impersonal machinery and inherited bureaucratic methodology of making several notes cannot be accepted in view of the modern technologies being used and available. The law of limitation undoubtedly binds everybody including the Government.

> 13) In our view, it is the right time to inform all the government bodies, their agencies and instrumentalities that unless they have reasonable and acceptable explanation for the delay and there was bonafide effort, there is no need to accept the usual explanation that the file was kept pending for several months/years due to considerable degree of procedural redtape in the process. The government departments are under a special obligation to ensure that they perform their duties with diligence and commitment. Condonation of delay is an exception and should not be used as an anticipated benefit for government departments. The law shelters everyone under the same light and should not be swirled for the benefit of a few. Considering the fact that there was no proper explanation offered by the Department for the delay except mentioning of various dates, according to us, the Department has miserably failed to give any acceptable and cogent reasons sufficient to condone such a huge delay." Eight years hence the judgment is still unheeded!"

In another decision, in the case of **Government of Maharashtra (Water Resources Department) V. M/s. Borse Brothers Engineers and Contractors Pvt. Ltd., 2021 SCC Online SC 233** also, in the factual context of long delay of 75 days, the explanation was found to be short of any sufficient cause. The explanation in the aforesaid case was noted in para 65 of the said judgment as below -

"65. That apart, on the facts of this appeal, there is a long delay of 75 days beyond the period of 60 days provided by the Commercial Courts Act. Despite the fact that a certified copy of the District Court's judgment was obtained by the respondent on 27.04.2019, the appeal was filed only on 09.09.2019, the explanation for delay being:

> "2. That, the certified copy of the order dated 01/04/2013 was received by the appellant on 27/04/2019. Thereafter the matter was placed before the CGM purchase MPPKVVCL for the compliance of the order. The same was then sent to the law officer, MPPKVVCL for opinion.
> 3. That after taking opinion for appeal, and approval of the concerned authorities, the officerin- charge was appointed vide order dated 23/07/2019.

> 4. That, thereafter due to bulky records of the case and for procurement of the necessary documents some delay has been caused however, the appeal has been prepared and filed to pursuant to the same and further delay.
> 5. That due to the aforesaid procedural approval and since the appellant is a public entity formed under the Energy department of the State Government, the delay caused in filing the appeal
> is bonafide and which deserve[s] to be condoned."

However, the Hon'ble Supreme Court was not satisfied with the cause shown on the above lines and it was held as below :

> "66. This explanation falls woefully short of making out any sufficient cause. This appeal is therefore allowed and the condonation of delay is set aside on this score also."
> The cause shown in the application, if we may say so is bereft of any sufficient cause for such a long delay. Only on the ground of delay this appeal is liable to be dismissed and accordingly dismissed."

1.7. Learned counsel for the appellant submits that the long delay on the part of the respondents has to be dealt with strictly and any kind of unreasoned condonation of delay would not be in the interest of justice.

2. Learned counsel for the respondents Mr. K.K. Bissa submits that the application for condonation of delay was filed with the ample reasons and has drawn the attention of this Court to the relevant part of that application, which reads as follows :-

> "1. The contents of the accompanying Appeal u/s 46 of the PBPT Act, 1988 (as amended up to date) may kindly be read as a part and parcel of this application. The Humble Appellant seeks leave of this Tribunal to refer to the contentions, averments made thereunder. The same have not been repeated herein for sake of brevity.
> 2. That vide order dated 27.07.2023 passed by this Hon'ble Tribunal, the IO was granted the leave and

additional time of 3 weeks for filing of separate appeal(s) in the matter(s), i.e. till 17.08.2023.

3. That the IO/ Appellant before this Hon'ble Tribunal has recently taken charge over the IO office in accordance with the transfers within the Department. The said transfer(s) being subsequent to passing of the order(s) dated 27.07.2023.

4. That new IO/ incumbent being unaware of the facts of the present matter and the record being voluminous in nature, the IO was unable to prefer separate Appeal(s) within three week(s) as was directed by this Hon'ble Tribunal vide order(s) dated 27.07.2023. Thereafter, the appeal was referred to the office of the SPP for seeking legal opinion followed by instructions in drafting and framing of the same. Therefore, it is humbly requested that the delay so caused for administrative reasons and without any laxity on part of IO office be condoned by the Hon'ble Tribunal in the interest of justice.

5. The appellant/ applicant has fairly good chances to succeed on merits, thus the matter may kindly be dealt with accordingly after condoning the delay in preferring the accompanying appeal."

2.1. Learned counsel for the respondents also submits that the new Initiating Officer stated that due to the transfer, the separate appeals could not be prepared in proper consultation with the Office of SPP.

2.2. Learned counsel for the respondents harped upon the point that this is not a case where an appeal was not filed at all, but rather a case where the appeal was filed within the time limit; however, since it was a joint appeal, the same was dismissed by the Appellate Tribunal on 27.07.2023 while granting leave and additional three weeks' time for filing separate appeals. He further submits that therefore, the authorities of the respondents were conscious and timely appeals were filed; however, when the order

of filing separate appeals was passed, the transfer of the Initiating Officer had taken place, thus, there was sufficient cause for reasonable delay, which could be granted by the Court.

3. This Court, after hearing learned counsel for the parties, finds that the application for condonation of delay preferred by the respondents has sufficiently explained the delay, which ranges from 50 to 200 days, by categorically narrating in the application, which is reproduced hereinabove, that due to the transfer of the concerned Initiating Officer and coming of new Initiating Officer, the consultation with the SPP Office could not take place in time, which resulted into delay in filing the appeals.

4. The strict connotation arrived at by the precedent law does not help the appellant because, in these cases, a joint appeal against the orders of the Adjudicating Authorities revoking the provisional attachment orders under Section 26(3) of the PBPT Act was filed on time in November 2021. Such joint appeal remained pending from November 2021 until it was disposed off by the Appellate Tribunal on 15.02.2023, whereby the liberty was granted to the respondents to file fresh separate appeals for each reference, recognizing the distinct nature of attachment orders. Thus, it is not a case where the respondents have not filed appeals in time. Of course, the compliance of the order of filling of separate appeals was also required to be made in time, but the reasons given in the application are sufficient and since there was a change in the transfer of the Initiating Officer, therefore, in the interest of justice, the separate appeals, for which liberty was granted by the Appellate Tribunal, have rightly been permitted to be heard on merits, while being treated as within the limitation.

5. In light of the aforesaid observations, no further interference in the impugned orders are called for.

6. Accordingly, the instant appeals as well as stay applications are dismissed.

(CHANDRA PRAKASH SHRIMALI),J **(DR.PUSHPENDRA SINGH BHATI),J**

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