BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

**Date of Decision : 14.01.2019**

**Misc. Application No. 410 of 2018**
**In**
**Misc. Application No. 173 of 2018**
**And**
**Appeal No. 208 of 2018**

Meeta Bipin Kumar Shah
1/1, Nupur Apartment,
Maninagar,
Ahmedabad – 380 008. ….. Applicant

Versus

Securities and Exchange Board of India,
SEBI Bhavan, Plot No. C-4A, G-Block,
Bandra-Kurla Complex, Bandra (East),
Mumbai – 400 051. …… Respondent

Mr. Prakash Shah, Advocate with Ms. Rinku Valanju, Advocate i/b R.V. Legal for the Applicant.

Mr. Aditya Mehta, Advocate with Mr. Pulkit Sukhramani, Advocate and Ms. Vidhi Jhawar, Advocate i/b The Law Point for the Respondent.

CORAM : Justice Tarun Agarwala, Presiding Officer
Dr. C.K.G. Nair, Member

Per : Justice Tarun Agarwala (Oral)

**Misc. Application No. 410 of 2018:-**

1. The application for condonation of delay as well as the appeal of the applicant was rejected by an order dated June 29, 2018. An application for recall of the said order has been filed by the applicant in Appeal No. 208 of 2018. Learned counsel for the applicant states that she was never served with the notice from the Registry of this Tribunal.

2. Having heard the learned counsel for the appellant and having perused the record, we find that the notices were sent which came back unserved.

3. In the light of the aforesaid, the order dated June 29, 2018 is recalled. The recall application is allowed and the Misc. Application No. 173 of 2018 and the appeal are restored to its original number.

**Misc. Application No. 173 of 2018:-**

1. The appellant has filed an application for condoning the delay of 660 days in filing the appeal. The grounds for condoning the delay are depicted in paragraph 3.2 of the application as under:-

(a) On receipt of the impugned Order, the Appellant was diligently pursuing the matter with her legal advisors, to prepare and file the present Appeal.

(b) The Appellant was unable to file the said appeal within the permitted time frame because of the circumstance and non-availability of required funds.

(c) The Appellant being a common person was not aware about SEBI Rules and Regulations and in turn has to take guidance from Friends and Relatives to prepare Appeal hence the delay.

(d) The Appeal could not be filed within the stipulated time of 45 days due to time taken by the Appellant to seek legal advice so there has been an inordinate delay of filing the present appeal.

2. The contention of the learned counsel for the appellant is, that they were diligently pursuing the matter with her legal advisors to prepare the appeal. Further, the appeal could not be filed within the stipulated period on account of non-availability of the required funds. It was also urged that the appellant is a housewife and was not aware of the SEBI Rules and Regulations. The appellant has consequently prayed that the entire delay of 660 days be condoned on payment of cost. In support of her submission the appellant has relied upon the decision of the Supreme Court in ***Civil Appeal No. 4649 of 2006 (Noted Infotech P. Ltd. vs. Securities & Exchange Board of India decided on August 04, 2008)*** wherein the Supreme Court condoned the delay of 720 days on payment of cost of Rs. 1 lakh. It was urged that in similar circumstances the delay of 660 days should be condoned by this Tribunal on payment of similar cost. The appellant also relied upon a decision of the Supreme Court in ***Ummer vs. Pottengal Subinda, 2018 SCC OnLine SC 199*** on the proposition that the appellant is not required to explain the delay of each day till the date of filing the appeal and that if plausible grounds are indicated then that would be sufficient grounds for condoning the delay. In addition to the aforesaid, the appellant has also relied upon a decision in ***Ram Nath Sao alias Ram Nath Sahu and Ors. vs. Gobardhan Sao and Ors. (2002) 3 Supreme Court Cases 195*** wherein the Supreme Court held that the expression "sufficient cause" should receive a liberal construction so as to advance substantial justice when no negligence or inaction or want of bonafides is imputable to a party.

3. On the other hand, learned counsel for the respondent contended that there is an inordinate delay in filing the appeal and nothing has been indicated as to why the appeal could not be filed earlier especially when the appellant was taking legal advice. Further, no proof has been filed to

indicate that there was non-availability of requisite funds. The respondent further contended that the appellant is not a housewife but is also Director in two of the firms and therefore she is aware of the SEBI Rules and Regulations and cannot be said to be in ignorance of the law. In support of their contention, the respondent has relied upon a decision of the Supreme Court in ***Balwant Singh (Dead) vs. Jagdish Singh and Ors. (2010) 8 Supreme Court Cases 685*** wherein the expression "sufficient cause" was explained to imply the presence of legal and adequate reasons. The learned counsel thus contended that legal and adequate reasons have not been indicated in the instant case and that the grounds mentioned are patently vague.

4. Having heard the learned counsel for the parties, we find that there is an inordinate delay of 660 days in filing the present appeal. By no stretch of imagination it can be said that the appellant was pursuing the matter with her legal advisor. In our opinion, such ground is patently misconceived and an afterthought. Further, nothing has been indicated by the appellant with regard to non-availability of requisite funds. Such allegations made are patently vague without any evidence to support such statement. We also find that the appellant has stated that she is housewife but we find from the impugned order that she also is also a Director in two firms, namely, Parvati Minerals Pvt. Ltd. and Pratik Minerals Pvt. Ltd.

5. We also find that appellant's husband Bipin Kumar Shah was a Director and had filed Appeal No. 376 of 2017 which was dismissed along with other connected appeals by judgment dated June 28, 2018 by this Appellate Tribunal. We also find that six other appeals were also filed, the leading appeal being Appeal No. 303 of 2016 which was dismissed by

common Judgment dated June 28, 2018. Review Application was filed which was also rejected by an order dated December 19, 2018.

6. In the light of the aforesaid, we are of the opinion that there has been an inordinate delay of 660 days in filing the appeal. We do not find any sufficient cause much less plausible cause shown by the appellant. The grounds given are patently vague and do not imply the presence of legal and adequate reasons. No doubt, the Tribunal is possessed with the exercise of judicial discretion in condoning the delay if sufficient cause or adequate reason is given. However, in the instant case, we find that while taking into account the conduct of the appellant, no bonafide reasons have been given in condoning the delay. It is the requirement of law that an application for condoning the delay cannot be allowed as matter of right and even in a routine manner on payment of cost especially in the absence of adequate and legal reasons.

7. For the reasons stated aforesaid, Misc. Application for condonation of delay is rejected. Consequently, the appeal does not survive and is also dismissed.

Sd/-
Justice Tarun Agarwala
Presiding Officer

Sd/-
Dr. C.K.G. Nair
Member

14.01.2019
Prepared and compared by:msb