

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision: 26.08.2019

Misc. Application No. 256 of 2019

And

Appeal No. 253 of 2019

Mr. Sujoy Sinha

Binayak Enclave, 59,

Kalicharan Ghosh Road, Block-Q

Flat 407,

Kolkata- 700 050

...Appellant

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. Nimay Dave, Advocate with Ms. Aparna Wagle, Advocate
i/b Alliance Law for the Appellant.

Mr. Vivek Shah, Advocate with Mr. Abhiraj Arora, Advocate
i/b ELP for the Respondent.

CORAM: Justice Tarun Agarwala, Presiding Officer
Justice M. T. Joshi, Judicial Member

Per: Justice Tarun Agarwala (Oral)

1. The present appeal has been filed against the order dated
December 01, 2015 passed by the Whole Time Member
("WTM" for convenience) of Securities and Exchange Board of
India ("SEBI" for convenience) whereby the company
Greentouch Projects Limited and its directors/ promoters were

directed jointly and severally to forthwith money refunded by the company through the issuance of Non-Convertible Redeemable Debentures. There is a delay of 1127 days in filing the appeal and accordingly an application for condoning the delay has also been filed.

2. We have heard the learned counsel for the parties. It was contended that the appellant was only a salaried employee and was unable to bear the financial cost for pursuing the remedy and was also awaiting the disposal of his representation by the respondent and thus, contended that the delay was unintentional and the same should be condoned.

3. Having heard the learned counsel and having perused the record we find that the appellant was a director and was duly represented in the proceedings before the WTM of SEBI. The appellant was aware of the order that was passed against him. Instead of filing an appeal, the appellant made a representation to SEBI. Such representation does not extend the period of limitation.

4. In support of his submission the learned counsel placed reliance upon a decision of this Tribunal in *Praveen Poddar vs.*

SEBI (Appeal No. 06 of 2019 decided on 15.07.2019) wherein this Tribunal had condoned the delay. Further, reliance was made of a decision of the Supreme Court in ***Huchanagouda vs. The Assistant Commissioner and Land Acquisition Officer and Ors. (decided on 30.07.2019)*** and ***Collector, Land Acquisition, Anantnag and Another vs. Mst. Katiji and Ors. (1987) 2 SCC 107.***

5. ***In Ram Nath Sao Alias Ram Nath Sahu and Ors. (2002) 3 SCC 195,*** the Hon'ble Supreme Court held that the expression "sufficient cause" should be given a liberal construction so as to advance substantial justice especially when no negligence or inaction or want of bonafides is imputable to a party.

6. However, in ***Balwant Singh (Dead) vs. Jagdish Singh & Ors. (2010) 8 SCC 685*** the Hon'ble Supreme Court held that the expression "sufficient cause" means the presence of legal and adequate reasons.

7. In the instant case, there has been inordinate delay of 1127 days in approaching the Appellate Tribunal. The contention that the appellant was a salaried employee cannot be believed as record shows that he was a whole time director in the company. Further, the appellant after passing of the impugned order was

aware of the legal implications and did not file an appeal but chose to file a representation. Such representation does not extend the period of limitation.

8. In the light of the aforesaid, we are of the opinion that sufficient cause has not been shown nor any adequate or legal reasons have been given for condoning the delay. The grounds urged are patently erroneous and appears to be an afterthought. No bonafide reasons have been given for condoning the delay. We are of the opinion, that it is the requirement of law that an application for condonation of delay cannot be allowed as a matter of right especially in the absence of adequate or legal reasons. The judgements cited by the learned counsel for the appellant are distinguishable and are not applicable in the present case. Consequently, for the reasons stated aforesaid, for the inordinate delay in filing the appeal the application for condonation of delay is rejected, as a result, the appeal is also dismissed with no order as to costs.

Sd/-
Justice Tarun Agarwala
Presiding Officer

Sd/-
Justice M. T. Joshi
Judicial Member