

**(2014) 08 BOM CK 0226**

**In the Bombay High Court**

**Case No : Central Excise Appeal No. 263 of 2013**

Central Railway

APPELLANT

Vs

Commissioner of C. Ex. and Customs

RESPONDENT

---

**Date of Decision :** 11-08-2014

**Acts Referred:**

**Citation :** (2015) 39 STR 199

**Hon'ble Judges :** S.C. Dharmadhikari, J;B.P. Colabawalla, J

**Bench :** Division Bench

**Advocate :** R.V. Desai, Senior Advocate and Suresh Kumar, Advocate for the Appellant; Pradeep S. Jetly i/b Suchitra Kamble, Advocate for the Respondent;

---

## **Judgement**

1. We have heard Mr. Desai, the learned Senior Counsel appearing on behalf of the Appellant-Central Railway and Mr. Jetly, the learned counsel appearing for the Revenue. We have perused the order passed by the Tribunal on the application for condonation of delay. In the given facts and circumstances, we do not find the reasons assigned to be typical bureaucratic explanation indicative of lack of bona fides on the part of the department or Government. The Tribunal has referred to all principles in paragraph No. 3.1 of the order under challenge. Yet, it refused to condone the delay of eight months in filing the appeal. The Appellant-original Applicant had said in the application that the delay has occurred not because of any deliberate or intentional act but because the Solapur Division and the senior most official there has not been authorized to take decision on his own when there are huge financial repercussion. He has referred the matter to the Head Quarters and that is how the matter was referred after meeting of the Senior Divisional Managers in August 2012. The issue raised was fundamental and pertaining to the service that the Railway offers to the travelling public. In these circumstances, we are of the opinion that the Tribunal erred in refusing to condone the delay.

2. We, therefore, admit this Appeal on the substantial question of law which reads thus:

"Whether in the facts and circumstances of the case and in law, the Tribunal was justified in refusing to condone the delay of eight months in filing of this Appeal?"

3. With the consent of the advocates we dispose of this Appeal by condoning the delay for the reasons stated hereinabove. The Tribunal should now register the appeal and hear it on merits and in accordance with law. The Appeal is, therefore, accordingly disposed of.