

(2010) 09 DEL CK 0323
In the Delhi High Court
Case No : L.P.A. 638 of 2009

Enforcement Directorate

APPELLANT

Vs

Devashish Bhattacharya

RESPONDENT

Date of Decision : 27-09-2010

Acts Referred:

Citation : (2010) 09 DEL CK 0323

Hon'ble Judges : Dipak Misra, C.J; Manmohan, J

Bench : Division Bench

Advocate : Atul Nanda, CGSC and Raneeza Hakeem, for the Appellant; Sudhir Chandra Aggarwal and Manoj Singh, for the Respondent

Judgement

Manmohan, J.

CM 17900/2009

1. The present Letters Patent Appeal has been filed challenging the judgment dated 21st April, 2009 passed by the learned Single Judge. The appeal was accompanied by the present application seeking condonation of delay of forty two days in filing the appeal.

2. When this matter was taken up for hearing on 18th December, 2009, the Division Bench directed issuance of notice on the appeal as well as on the application for condonation of delay and in the meantime, stay of the impugned judgment was granted. Subsequently, when the matter was taken up for hearing on 17th May, 2010, this Court directed the learned Additional Solicitor General of India to file a detailed affidavit giving reasons for delay in filing the present appeal. The additional affidavit has been filed and the relevant portion of the same reads as under:

3. I say that a certified copy of the impugned order dated 21.4.2009 passed by the Hon'ble Single Judge was received on 29.4.2009. It is humbly submitted that as with Government departments and instrumentalities, the decision to challenge

an order and avail of the remedy of an appeal does not rest on single individual officer but the same is require to be decided on the basis of deep examination and long deliberation at various levels of the department/government and often with reference and consultation with the Legal Section /law officers of the department. In order to examine the matter at length the original records of the case are also required to be consulted, which further consume time.

4. In keeping with such process, the impugned order and the relevant file was placed before the competent authority for the purpose of examination and for taking a decision in the matter. The decision to file an Letters Patent Appeal was taken and communicated to Delhi Zonal office of Directorate of Enforcement (the appellant) on 17.6.2009 during summer vacation and vide letter dt. 29.6.2009 the panel counsel was requested to file the LPA.

5. The said appeal was prepared by the panel counsel and was vetted by the Ld. Additional Solicitor General. Thereafter the present appeal came to be filed before this Hon"ble Court on 10.7.2009.

3. Mr. Sudhir Chandra Aggarwal, learned senior counsel for respondent submitted that the aforesaid affidavit did not disclose any cause for condonation of delay. He further submitted that the said affidavit only discloses as to how the file has moved from one government officer to another. In this connection, Mr. Aggarwal placed reliance upon the judgments of the Supreme Court in *Oriental Aroma Chemical Industries Ltd. Vs. Gujarat Industrial Development Corporation and Another*, ; *Pundlik Jalam Patil (D) by Lrs. v. Exe. Eng. Jalgaon Medium Project and Anr. JT (2008) 11 596*; and *Municipal Corporation of Delhi Vs. Female Workers (Muster Roll) and Another*, Mr. Aggarwal pointed out that in the said cases, the Apex Court had refused to condone the delay in filing the appeal.

4. Per contra, Mr. Atul Nanda, learned standing counsel for Union of India submitted that the additional affidavit disclosed sufficient cause for condonation of delay. He further submitted that in the absence of mala fides or deliberate delay, the Courts have normally been condoning delay. He also pointed out that the Apex Court in numerous cases had condoned "large delays" on the part of Union of India. In this connection, he placed reliance upon *State of Nagaland Vs. Lipok AO and Others*, *State of Haryana Vs. Chandra Mani and others*, *N. Balakrishnan Vs. M. Krishnamurthy*, ; *Shankarrao Vs. Chandrasenkunwar, Collector, Collector, Land Acquisition, Anantnag and Another Vs. Mst. Katiji and Others*, ; and *O.P. Kathpalia Vs. Lakhmir Singh (Dead) and Others*,

5. Having heard both the parties at length and having perused the judgments cited at the bar, we are of the view that the law of limitation is founded on public policy and the said law is equally applicable to both citizens and governmental authorities. Undoubtedly, the law of limitation prescribes a period within which a legal injury can be redressed, but the Courts have the power to condone the delay if sufficient cause is shown for not filing the petition within the stipulated time. The expression "sufficient cause" is wide enough to enable the Courts to

apply the law in a meaningful manner which sub-serves the ends of justice. No hard and fast rule can be laid down in dealing with the applications for condonation of delay, but the general approach has been that where the petitioner has offered any plausible/tangible explanation for delay, the Courts have condoned the same.

6. Moreover, in matters of delay, the State and its instrumentalities are entitled to a certain amount of latitude as the State represents collective cause of the community and decisions are taken by the government officers at different levels.

7. Keeping in view the aforesaid approach, we are of the opinion that as, the delay in the present case is not "extra-ordinary long" and as, the appellant has offered a plausible/acceptable explanation for the said delay, the same needs to be condoned. Consequently, sufficient cause having been shown, the application is allowed and delay in filing the present appeal is condoned.

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As we have condoned the delay in filing the appeal, Registry is directed to list the matter for hearing on 06th December, 2010.

Interim order passed on earlier occasion shall continue till the next date of hearing.