
(2021) 06 SEBI CK 0037

In the Securities Appellate Tribunal Mumbai

Case No : Appeal No. 127 Of 2021

Focus Industrial Resources Ltd

APPELLANT

Vs

Securities & Exchange Board Of India

RESPONDENT

Date of Decision : 09-06-2021

Acts Referred:

Citation : (2021) 06 SEBI CK 0037

Hon'ble Judges : Tarun Agarwala, Presiding Officer; M. T. Joshi, J

Bench : Division Bench

Advocate : Sahil Yadav, Suraj Choudhary, Mihir Mody, Mayur Jaisingh, Arnav Misra, K. Ashar

Judgement

Tarun Agarwala, Presiding Officer

1. The present appeal is against the order dated March 14, 2019 passed by the Adjudicating officer (hereinafter referred to as "AO") of

Securities and Exchange Board of India (hereinafter referred to as "SEBI"). There is a delay of more than 643 days in the filing of the appeal

and accordingly an application for condonation of delay has been filed.

2. The ground urged is, that the affairs of the company was being managed by Mrs. Mamta Jindal who could not devote time to the affairs of the

Company on account of personal exigencies. It was contended that her daughter was going through a matrimonial discord which ultimately culminated

in a divorce in November 2019. Further, several criminal cases had also been filed by her daughter which caused mental trauma and depression and

eventually she could only engage an advocate in February 2020 to file an appeal. It is alleged that the appeal was eventually filed on January 25, 2021.

It was contended that on account of the Covid Pandemic lockdown was effected

from March 25, 2020, and therefore the appeal could not be filed

and, in any case, the Honâ??ble Supreme Court has extended the period of limitation by its order dated March 23, 2020 and April 27, 2021 in *Suo*

Motu Writ Petition (Civil) No. (S) 3 of 2020.

3. Having heard the learned counsel for the appellant and having perused the application for condonation of delay, we are of the opinion that there is an inordinate delay in the filing of the appeal.

The ground urged is neither bonafide nor sufficient to condone this inordinate delay. We are of the opinion that the grounds made out in the application

for condonation of delay are neither legal, bonafide or sufficient to condone the delay. The order of the Honâ??ble Supreme Court only extends the

period of limitation which expires from March 15, 2020 onwards. In the instant case, the impugned order is dated March 14, 2019 and the period of

limitation expired much before the order of the Honâ??ble Supreme Court became operative.

4. In *Basawaraj and Anr. vs. Special Land Acquisition Officer*, [(2013) 14 SCC 81], the Honâ??ble Supreme Court held that the discretion to

condone the delay has to be exercised judicially based on facts and circumstances of each case and that sufficient cause cannot be given a liberal

interpretation if lack of bonafide is attributed to a party. The Supreme Court further held that delay cannot be condoned on equitable ground beyond

the limits permitted expressly by statute.

5. The Supreme Court in *Ram Nath Sao and Ors.* (*supra*) held that the expression â??sufficient causeâ? should receive a liberal construction so as to

advance substantial justice when no negligence or inaction or want of bonafide is imputable to a party. The same view was reiterated by the Supreme

Court in *Madanlal vs. Shyamlal*, [(2002) 1 SCC 535].

6. In *Balwant Singh (Dead) vs Jagdish Singh & Ors.* [(2010) 8 SCC 685], the Honâ??ble Supreme Court held that the expression â??sufficient

causeâ?? means the presence of legal and adequate reasons.

The decisions cited by the learned counsel for the appellant are of no avail and, in any case, not applicable in the present circumstance of the case.

7. This Tribunal is possessed with the exercise of judicial discretion in condoning the delay if sufficient or adequate reason is given. It is also a settled

proposition of law that the law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so

prescribes. The court has no power to extend the period of limitation on equitable grounds as held by the Supreme Court in *Basawaraj and Anr.*

(*supra*). In the instant case, we do find any legal or adequate reasons to condone the delay.

8. For the reasons stated aforesaid, the application for condonation of delay is dismissed and a result of which the appeal fails and is also dismissed

with no order as to costs.

9. The present matter was heard through video conference due to Covid-19 pandemic. At this stage it is not possible to sign a copy of this order nor a

certified copy of this order could be issued by the Registry. In these circumstances, this order will be digitally signed by the Private Secretary on

behalf of the bench and all concerned parties are directed to act on the digitally signed copy of this order. Parties will act on production of a digitally

signed copy sent by fax and/or email.