
(2023) 10 SEBI CK 0019

In the Securities Appellate Tribunal Mumbai

Case No : Miscellaneous Application No. 1045, 1046 Of 2023, Appeal No. 802 Of 2023

Netai Pramanik

APPELLANT

Vs

Securities And Exchange Board Of India And Others

RESPONDENT

Date of Decision : 16-10-2023

Acts Referred:

Citation : (2023) 10 SEBI CK 0019

Hon'ble Judges : Tarun Agarwala, Presiding Officer

Bench : Single Bench

Advocate : Harshit Gudhka, Vishal Kanade, Nitin Jain, Kajal Solanki, Anuj V. R

Final Decision : Dismissed

Judgement

Tarun Agarwala, Presiding Officer

1. The present appeal has been filed against the order of the Whole Time Member (hereinafter referred to as 'WTM') of Securities and Exchange Board of India (hereinafter referred to as 'SEBI') dated September 12, 2018. There is a delay of around 1758 days in the filing of the appeal. An application for condonation of delay has been filed contending that the appellant is residing in a remote area thousand of kilometers away from Mumbai from where the impugned order was passed. Further, due to Covid-19 the appellant could not file the appeal.

2. Having perused the application for condonation of delay and having heard the learned counsel for the applicant, I find that no specific date has been given as to when the impugned order was received by them. According to the learned counsel for the respondent, service of the impugned order was made immediately thereafter in September 2018 itself. One finds that the account of the appellant was frozen in 2021 but even then no steps were taken to file an appeal.

3. Consequently, I am of the opinion that there has been an inordinate delay in

the filing of the appeal. No sufficient cause has been shown to condone this inordinate delay.

4. In *Basawaraj and Anr. vs. Special Land Acquisition Officer*, [(2013) 14 SCC 81], the 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 "sufficient cause" 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], Supreme Court held that the expression "sufficient cause" 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 not find any legal or adequate reasons to condone the delay.

8. For the reasons stated aforesaid, in view of the inordinate delay, the application of condonation of delay is rejected, as a result of which the appeal is also dismissed with no order as to costs.