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**(2023) 11 SEBI CK 0005**

**In the Securities Appellate Tribunal Mumbai**

**Case No :** Miscellaneous Application No. 999, 1000, 1001 Of 2023, Appeal No. 834 Of 2023

Ramesh Chandra Gupta

APPELLANT

Vs

National Stock Exchange of India Ltd And Others

RESPONDENT

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**Date of Decision :** 20-11-2023

**Acts Referred:**

**Citation :** (2023) 11 SEBI CK 0005

**Hon'ble Judges :** Tarun Agarwala, Presiding Officer; Meera Swarup, Technical Member

**Bench :** Division Bench

**Advocate :** S. K. Chaudhary, Prathamesh Kamat, Ishan Agrawal, Anway Pawar, Ashutosh Mishra, Ravishekhar Pandey, Nishit Dhruva, Shefali Shankar, Rasika Ghate, Harsh Sheth

**Final Decision :** Dismissed

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## Judgement

Tarun Agarwala, Presiding Officer

1. The present appeal has been filed against a communication dated November 22, 2021 issued by National Stock Exchange of India Ltd. (hereinafter referred to as 'NSE').

2. The facts leading to the filing of the present appeal is, that a claim was filed by the appellant under the Investor Protection Fund before NSE which was rejected in the year 2017. The appellant being aggrieved, filed a complaint before the Securities and Exchange Board of India which after due consideration the complaint was closed on SEBI Complaint Redressal platform on August 1, 2019. Being aggrieved by the communication of SEBI, the appellant filed an Appeal No. 504 of 2019 which was dismissed by this Tribunal on the ground of laches by its order dated February 24, 2020. Thereafter, the appellant filed a review application which was also dismissed by an order dated April 6, 2021. This Tribunal took a lenient view considering that the appellant was ex-army

personnel and was not well-versed with the securities laws and accordingly permitted the appellant to file a fresh application before the stock exchange annexing all the documents which would be considered and decided by the stock exchange in accordance with law.

3. It transpires that a fresh application was filed which was duly considered and by the impugned communication dated November 22, 2021, the claim was rejected on the ground that it is inadmissible. Such amount deposited with the broker Kassa Finvest Pvt. Ltd. was construed as a loan transaction since the appellant was receiving credit of interest and TDS was also deducted on such interest. The appellant being aggrieved by the said order has filed the present appeal.

4. There is a delay of about two years in the filing of the appeal and an application for condonation of delay has been filed. The ground urged is that there is only a delay of 230 days as the appellant was pursuing the remedy before the Hon'ble Delhi High Court which Writ Petition was dismissed on May 18, 2023 giving liberty to the appellant to file an appeal before this Tribunal.

5. Having heard the learned counsel for the appellant, we find that merely by filing a Writ Petition before the Hon'ble Delhi High Court will not entitle the appellant for condonation of delay nor any such delay was condoned by the Hon'ble Delhi High Court. No explanation has been given as to why the appellant could not file the appeal before this Tribunal after the impugned communication dated November 22, 2021 was passed by the respondent. Further, even after the passing of the order dated May 18, 2023, no valid explanation has been given as to why the appeal could not be preferred at the earliest and it took more than 200 days in the filing of the appeal before this Tribunal.

6. Consequently, we are satisfied that there is an inordinate delay in the filing of the appeal.

7. In *Basawaraj and Anr. vs. Special Land Acquisition Officer*, [(2013) 14 SCC 81] the Hon'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 Hon'ble Supreme Court further held that delay cannot be condoned on equitable ground beyond the limits permitted expressly by statute.

8. The Hon'ble 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].

9. 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. 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.

10. 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.

11. For the reasons stated aforesaid, the appeal is dismissed on the ground of laches.