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**(2022) 08 SEBI CK 0049**

**In the Securities Appellate Tribunal Mumbai**

**Case No :** Miscellaneous Application No. 759 Of 2022, Appeal No. 477 Of 2022

S.K. Abdul Robial

APPELLANT

Vs

Securities And Exchange Board Of India

RESPONDENT

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**Date of Decision :** 11-08-2022

**Acts Referred:**

**Citation :** (2022) 08 SEBI CK 0049

**Hon'ble Judges :** Tarun Agarwala Presiding Officer; M. T. Joshi, J; Meera Swarup Technical Member

**Bench :** Full Bench

**Advocate :** Saurabh Bacchawat, Deepak Dhane, Akash Rebello, Nishit Dhruva, Shefali Shankar

**Final Decision :** Dismissed

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## **Judgement**

Tarun Agarwala, Presiding Officer

1. The appellant has filed the present appeal against the order dated 17th February, 2017 passed by the Whole Time Member ("WTM" for short). There is a delay of 1926 days in the filing of the appeal. The ground urged is that two ex-parte ad-interim orders were passed by the WTM against which the appellant had filed a reply to one of the ad-interim order but due to oversight he could not file any reply to the other ad interim order. Now the appellant has woken up and on advice given by his Advocate this appeal has been filed.

2. Having heard the learned counsel for the appellant we are of the view that sufficient cause has not been shown to condone this inordinate delay.

3. 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.

4. 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*.

5. 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.

6. 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.

7. In the absence of any legal and valid reason, the inordinate delay cannot be condoned. The application for condonation of delay is rejected as a result of which the appeal is also dismissed.

8. It is, however, open to the appellant to move an appropriate recall application before the WTM and if the same is filed the WTM will decide the matter in accordance with law.

9. 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. Certified copy of this order is also available from the Registry on payment of usual charges.