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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

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Date of Decision : 28.05.2024

+ **FAO(OS) (COMM) 171/2019**

TELECOMMUNICATION CONSULTANTS
INDIA LTD (TCIL)

..... Appellant

Through: Mr.Ratan K Singh, Sr Advocate with
Mr.Nikhlesh Krishnan, Ms.Ritika
Priya, Mr.Abhishek Bhushan Singh,
Advocates.

versus

NGBPS LTD

..... Respondent

Through: Mr.T.S.Ahuja, Mr.Varun S Ahuja and
Ms.Ridhi Kapoor, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

VIBHU BAKHRU, J. (ORAL)

CM APPL. 32784/2019 (condonation of delay)

1. This is an application filed by the appellant seeking condonation of delay of 118 days in filing the above-captioned appeal. It is stated in the said application that there is no period of limitation prescribed for filing an appeal under Section 37 of the Arbitration and Conciliation Act, 1996 (hereafter *the A&C Act*). Nonetheless, the application is filed with 'abundant caution'.

2. The only reason provided in the said application seeking condonation



of delay is that the exercise of intra-departmental analysis and discussions for challenging the impugned judgment on the aspect of upholding the arbitral award took some time. It is also stated that the '*formulation of decision towards further steps in respect of the impugned judgment required movement of proposal amidst the administrative hierarchy of the appellant and thereafter invitation of legal opinion in that regard*' took some time.

3. The said application is bereft of any particulars. It is well settled that an application seeking condonation of delay in filing the proceedings must explain the reasons for every day of the delay with full particulars.

4. Mr Singh, learned senior counsel appearing on behalf of the appellant submits that since the appellant is a Public Sector Undertaking (PSU), it should be treated differently.

5. We find no merit in the said contention.

6. In *N.V. International v. State of Assam & Ors.: (2020) 2 SCC 109*, the Supreme Court had, taking cue from the proviso to Section 34(3) of the A&C Act, held that the court cannot condone a delay exceeding 30 days in filing an appeal under Section 37 of the A&C Act. In *Government of Maharashtra (Water Resources Department) Represented By Executive Engineer v. Borse Brothers Engineers and Contractors Pvt. Ltd.: (2021) 6 SCC 460*, the Supreme Court overruled the said decision. However, the Supreme Court also explained that it would not be apposite to take an elastic approach in matters of delay in filing appeals under Section 37 of the A&C Act or under the Commercial Courts Act, 2015. The relevant extract of the said decision is set out below: -



“58. Given the object sought to be achieved under both the Arbitration Act and the Commercial Courts Act, that is, the speedy resolution of disputes, the expression “sufficient cause” is not elastic enough to cover long delays beyond the period provided by the appeal provision itself. Besides, the expression “sufficient cause” is not itself a loose panacea for the ill pressing negligent and stale claims...

* * *

63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals under Section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1-A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule....”

7. In the present case, the appellant has not provided any credible explanation why it was prevented by sufficient cause to file the appeal within time. A broad general explanation that the intra-departmental analysis and discussions took time and that the steps in the formulation of the decision for further steps required the movement of proposal amidst the administrative hierarchy caused the delay clearly cannot be accepted as sufficient cause which prevented the appellant from filing the appeal within the stipulated period.

8. The delay in filing the appeal is almost twice the period available for preferring the appeal.

9. In absence of any particulars, we are unable to accept that the delay in filing the present appeal is required to be condoned.

10. The application is, accordingly, dismissed.



FAO(OS) (COMM) 171/2019 & CM APPL. 32785/2019 (Stay)

11. In view of dismissal of the application for condonation of delay, the appeal is dismissed as well.

12. Since the appeal has been dismissed, the amount deposited by the appellant before this Court is required to be released to the respondent. It is so directed.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

MAY 28, 2024

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Click here to check corrigendum, if any