

BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI

Date of Decision : 17.11.2020

**Misc. Application No. 253 of 2020
(Delay Application)
And
Appeal No. 166 of 2020**

Sukumar Subramanian
No. 1, Parthasarthy Street,
M. C. Road,
Old Washermanpet,
Chennai - 600021.

..... Appellant

Versus

Securities and Exchange Board of India
SEBI Bhavan, Plot No. C-4A, G Block,
Bandra Kurla Complex, Bandra (East),
Mumbai - 400 051.

... Respondent

Mr. Ankit Lohia, Advocate with Ms. Prachi Pandya, Advocate i/b
Corporate Attorneys for the Appellant.

Mr. Shyam Mehta, Senior Advocate with Mr. Mihir Mody,
Mr. Sushant Yadav, Mr. Arnav Misra, Mr. Shehaab Roshan,
Advocates i/b K. Ashar & Co. for the Respondent.

CORAM : Justice Tarun Agarwala, Presiding Officer
Dr. C. K. G. Nair, Member
Justice M. T. Joshi, Judicial Member

Per : Justice Tarun Agarwala, Presiding Officer (Oral)

1. The present appeal has been filed against the order dated January 2, 2019 passed by the Whole Time Member (hereinafter referred to as 'WTM') of Securities and Exchange Board of India (hereinafter referred to as 'SEBI'). There is a delay of 356 days in filing the present appeal. The appellant has filed an application for condoning the delay. The ground urged is, that the appellant was a director in the company and had resigned in January 2012 and did not have access to the data and had to collate the same from the company. It was also stated that it took some time for the appellant to confirm and understand the import and content of the impugned order and thereafter to collate the data from the company. It was also urged that for the same issue the appellant had received two other notices and, therefore, all this took time to file an appeal. It was urged that there was no undue delay and the reasons for the delay is bonafide which is liable to be condoned.

2. The application for condonation of delay has been opposed by the respondent contending that no valid or cogent or legal grounds have been given by the appellant and that there is an inordinate delay in the filing of the appeal which cannot be condoned.

3. Having heard the learned counsel for the parties, we are of the opinion that there is an inordinate delay in the filing of the present appeal. The contention that it took some time for the appellant to collate the data from the company is not borne out from any evidence on record. No documents have been filed to show any correspondence with the company. Further, all the material was already with the appellant as he had filed a reply to the show cause notice and had the necessary information and documents. Thus, the contention that the appellant did not have any documents and had to collate the data from the company appears to be an afterthought. We find that no plausible explanation has been given for condoning the 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 find any legal or adequate reasons to condone the delay.

8. For the reasons stated aforesaid, we do not find any valid reasons to condone the delay. The application for condonation of

delay is dismissed as a result of which the appeal 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 Presiding Officer 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.

Justice Tarun Agarwala
Presiding Officer

Dr. C. K. G. Nair
Member

Justice M. T. Joshi
Judicial Member

17.11.2020
PTM