

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Date of Decision:19.11.2020**

**Misc. Application No.409 of 2020  
And  
Misc. Application No.410 of 2020  
And  
Appeal No.415 of 2020**

1. Mr. Partha Chakraborti
2. Mrs. Soma P. Chakraborti  
AG-18, Salt Lake City,  
Kolkata – 700064.

...Appellants

Versus

Securities and Exchange Board of India  
SEBI Bhavan, C-4A, G-Block,  
Bandra Kurla Complex,  
Bandra (East), Mumbai – 400051.

...Respondent

Mr. Dakshesh Vyas, Advocate with Mr. Supriyo Ranjan Saha and Mr. Sumit Raghani, Advocates i/b. Agrud Partners, for the Appellants.

Mr. Anubhav Ghosh, Advocate i/b. The Law Point 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 appellants have filed the present appeal against the order dated 8<sup>th</sup> September, 2017 passed by the Whole Time Member directing the appellants to refund the money jointly and severally collected through offer and allotment of shares of Chakra Infrastructure Limited (CIL) alongwith interest. There is a delay of 1088 days in the filing of the appeal and, accordingly, an application for condonation of delay has been filed.
2. It has been urged that the order was received on 11<sup>th</sup> July, 2019 and, thereafter, they took necessary steps with the Company and were also watching certain proceedings which were pending in the Calcutta High Court.
3. Further, after the attachment order was received in July, 2020 the appellant took steps for filing a review application before Securities and Exchange Board of India which was dismissed on 14<sup>th</sup> September, 2020 and, thereafter, the present appeal was filed. It was urged that the appellants were pursuing other remedies

and there was no willful default in filing the present appeal, hence the delay is liable to be condoned.

4. Having heard the learned counsel for the parties we find that admittedly the appellants were pursuing the proceedings before the Whole Time Member and had filed a reply. The impugned order was served soon thereafter. Upon a request made by the appellant another copy was received by them on 11<sup>th</sup> July, 2019. Even then no steps were taken by the appellant to file an appeal it is only when attachment proceedings were initiated that the appellants woke up and had tried to file the present appeal. We find that no sufficient cause has been shown nor are there any legal grounds to condone this inordinate delay.

5. 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.

6. The Supreme Court in *Ram Nath Sao alias Ram Nath Sahu and Others vs Gobardhan Sao And Others* (2002) 3 SCC 195 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.
7. 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.

8. 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.

9. For the reason stated aforesaid on account of the inordinate delay, the application for condonation of delay is rejected as a result of which the appeal is also dismissed with no order as to costs. Misc. Application No.410 of 2020 is also disposed of accordingly.

10. 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

19.11.2020  
RHN