

BEFORE THE SECURITIES APPELLATE TRIBUNAL  
MUMBAI

**Date of Decision:13.9.2021**

**Misc. Application No.936 of 2021  
And  
Appeal No.582 of 2021**

Antara Mukherjee  
2A, Chunapukur Lane,  
Kolkata-700012.

...Appellant

Versus

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

...Respondent

Mr. Vinay Chauhan, Advocate with Mr. K.C. Jacob,  
Advocate for the Appellant.

Mr. Vishal Kanade, Advocate with Mr. Bhushan Shah,  
Mr. Chirag Shah, Mr. Rishab Jain and Ms. Daksha  
Kasekar, Advocates i/b. Mansukhlal Hiralal & Co for the  
Respondent.

CORAM: Justice Tarun Agarwala, Presiding Officer  
Justice M.T. Joshi, Judicial Member

Per: Justice Tarun Agarwala, Presiding Officer (Oral)

1. The present appeal has been filed against the order  
of the Whole Time Member dated 16<sup>th</sup> January, 2018

whereby the appellant alongwith other notices were directed to refund the monies that was collected by the Company.

2. There is a delay of 1236 days in the filing of the appeal and accordingly an application for condonation of delay has been filed. The ground urged is, that even though the impugned order was served upon the appellant on 1<sup>st</sup> February, 2018 the appellant after due consultation with the advocates was advised not to file the appeal. However, in view of recent judgment of this Tribunal dated 9<sup>th</sup> April, 2019 in the case of Sayanti Sen, in Appeal no.163 of 2018, the present appeal has been filed claiming parity.

3. Having heard the learned counsel for the appellant we do not find any sufficient cause made out for condoning the inordinate delay. The mere fact that another decision has come which might favour the appellant does not entitle her to file the appeal belatedly.

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 not find any legal or adequate reasons to condone the delay.

8. For the reasons stated aforesaid, the application for condonation of delay is rejected 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 Private Secretary 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

Justice M.T. Joshi  
Judicial Member

13.9.2021

RHN