

BEFORE THE HON'BLE NATIONAL GREEN  
TRIBUNAL WESTERN ZONE BENCH, PUNE AT PUNE  
INTERLOCUTORY APPLICATION NO. OF 2024

(WZ)

(CONDONATION OF DELAY)

IN

APPEAL NO. 9 OF 2024

M/s. Lavino-Kapur Cottons Private Limited. )

... APPLICANT

(ORIGINAL APPELLANT)

IN THE MATTER BETWEEN

M/s. Lavino-Kapur Cottons Private )

Limited, ) ... Appellant

VERSUS

Maharashtra Pollution Control )

Board & Ors. )

...Respondents

ADDITIONAL AFFIDAVIT

I, Vikram Kapur, aged 65, Indian inhabitant, having my place of work at 121-122, Mittal Chambers, Nariman Point, Mumbai – 400 021, do hereby state on solemn affirmation as under:

*VK*



1. I say that I am the Director of the above Applicant Company and I have preferred the above Application seeking Condonation of Delay for filing the said Appeal No. 9 of 2024. I say that the above Application is filed in compliance of the Order dated 10<sup>th</sup> January, 2024 passed by this Hon'ble Tribunal. I say that this Additional Affidavit is preferred to explain the delay that occurred after the filing of present Appeal and the stoppage of limitation period thereby in removing the office objections that were identified by the Registry of this Hon'ble Tribunal in the Appeal so filed till the above said Appeal was listed for hearing after removal of the defects.
2. I say that the above Appeal was preferred on 4th June, 2021. I say that the defects were identified by the Ld. Registry somewhere in July, 2021 in the above said Appeal. I say that in the above I. A., Applicant has already explained that since December, 2019 the COVID pandemic started to spread across the world and the wave hit across India in March, 2020. Due to the onset of the COVID-19 pandemic the Supreme Court took suo-motu cognizance of the situation arising from difficulties that might be faced by litigants across the country in filing Petitions/

*[Handwritten signature]*

Applications/ Suits/ Appeals / all other proceedings within the periods of limitation prescribed under the general law of limitation or under any special laws (both Central or State), in Suo Motu Writ Petition (Civil) No. 3 of 2020 in Re “cognizance for extension of limitation”. By Order dated 8<sup>th</sup> March, 2021, while disposing of the Petition, the Hon’ble Supreme Court held, inter-alia, as under, in para 2(2) of the Order :



“In cases where the limitation would have expired during the period between 15.03.2020 till 14.03.2021, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 15.03.2021. In the event the actual balance period of limitation remaining, with effect from 15.03.2021, is greater than 90 days, that longer period shall apply”

Since the limitation in the present case expired during the period 15.03.2020 and 14.03.2021, the limitation for filing the present Appeal was 90 days

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from 15.03.2021 and therefore the same was well within time.

3. I say that after the defects in the above Appeal were identified somewhere in July, 2021. As this Hon'ble Tribunal well conversant that though the 1<sup>st</sup> wave of Covid Pandemic started subsiding on or about November, 2020, the second wave of the said Covid Pandemic was started on or about April, 2021. The Second wave of the Covid spread like a wild fire. Though the lockdown restrictions were not as stringent as first Covid wave but the effect of the same was much more devastating than the first wave. The Applicant states that, approximately more than 2.5. lakhs people succumbed to the Second Wave of Covid in India. Applicant states that during this period, i.e. from March, 2021 till December, 2021, the Applicant could not remove the defects of the said Appeal mainly due to Covid second wave and its impact on the Society at large. Since the Interstate and Intrastate traveling restrictions were stringent and threat of Second Covid wave was so effective due to the number of deaths occurred, during this period the Advocate of the Applicant avoided visiting Registry of this Tribunal physically to remove the defects.



Notary

4. The Applicant states that the said wave started to subside around December, 2021 but due to large number of deaths and its wide spread, the said defects could not be removed. I say that after January, 2022, the third wave of Covid virus once again started to erupt. I say that, on or about February, 2022, the Advocate for the Applicant was infected with the Covid virus and was not available for judicial work for more than a month's span. Due to which the removal of defects in the above matter was affected.

5. I say that pending above issue, the Applicant herein was dealing with various illegalities and pressure tactics adopted by MPCB as well as TEPS from February, 2022 onwards. The said Respondents were issuing notices for depositing contributions towards desludging charges, membership charges, threat notices for closure of SCADA Valves etc. Due to which, Applicant herein had to file a separate O.A. No. 21 of 2024 for challenging the same. The said O.A. was filed on or about March, 2023.

6. I say that the atrocities on behalf of Respondents herein were continuing, and since urgent directions were required to be sought against the Maharashtra Pollution Control Board to ensure unhindered discharge of effluents and

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restoring the SCADA Valve and / or opening the NRV through which the Applicant's discharges effluents or provide another outlet therefor, the Applicant filed Writ Petition No. 4247 of 2023. The Hon'ble High Court ultimately, however, disposed of the said Writ Petition by Order dated 10.04.2023, inter-alia, since according to the Hon'ble High Court the Applicant had already approached this Hon'ble Tribunal pursuant to the Orders passed by the Hon'ble High Court in the earlier Writ Petition and therefore the reliefs sought in the Writ Petition No. 4247 of 2023 before them could also be claimed before the Hon'ble NGT and all contentions on merits were kept open.

7. I say that the Applicant herein was trying to cure the defects issued by the Registry in said Appeal No. 9 of 2024. On or about April, 2024, the Applicant herein removed some of the defects and uploaded the scanned copy of the same on the portal of this Hon'ble Tribunal thereby paying the necessary charges towards fees, prints etc. The Receipt for the same was also issued. Due to some technical glitches in the online portal of this Hon'ble Tribunal, the Registry couldn't find the said receipt. On or about December last week, the Registry of this Hon'ble Tribunal



*Signature*

contacted the Advocate of the Applicant telephonically and requested to provide the said receipt. Accordingly, by email dated 5<sup>th</sup> January, 2024, the Advocate of the Applicant provided the said Receipt and requested Registry to list the said matters on board. Due to which the said matters were listed on 10<sup>th</sup> January, 2024 before this Hon'ble Tribunal.

8. I say that in the light of abovementioned facts and circumstances, the delay from the date of identifying the defects by the Registry of this Hon'ble Tribunal till the removal of all the defects be condoned. The said delay was not at all intentional and the same were beyond the control of the Applicant.

Solemnly affirmed at Mumbai on this 19th day of March, 2024.

Identified by me

*[Signature]*  
Advocate

*[Signature]*  
Deponent

**BEFORE ME**

*[Signature]*

**BIDHU PANICKER**  
B.Com. LL.B.

ADVOCATE HIGH COURT  
NOTARY (Govt. of India)  
Res: 303, Sandeep Apt., Plot No. A/197,  
Sector-20, Near Balaji Temple,  
Nerul (W), Navi Mumbai, Maharashtra.

Notary Reg. Sr. No. 1495/2024  
In Book No. II

19 MAR 2024

