

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
(WESTERN ZONE BENCH) AT PUNE
INTERIM APPLICATION NO. 92 OF 2024

IN

APPEAL NO. 37 OF 2024

Sayyed Mohammed Sabir Usman ... Applicant/ Appellant

Versus

Union of India through secretary MOEFCC & Ors. ... Respondents

**AFFIDVAIT IN REPLY ON BEHALF OF RESPONDENT NO.4 TO THE
INTERIM APPLICATION OF APPELLANT SEEKING CONDONATION
OF DELAY**

I, Ms.Pooja Haresh Mehta, an adult, Indian inhabitant, being the Authorized Signatory of Respondent No.4 abovenamed, having my office at 702, Natraj, 7th Floor, M. V. Road Junction, Western Express Highway, Andheri-East, Mumbai-400 069 do hereby solemnly state as under –

1. I am the Authorised Signatory of Respondent No. 4 abovenamed. I am aware of the facts involved in the present matter on the basis of the records maintained by Respondent No. 4 in its ordinary course of business. I am, therefore, competent to depose to the statements in the present Affidavit. I have perused the contents of the captioned Interim Application No. 92 of 2024 seeking condonation of delay ("Application") and Appeal and I am filing the present Affidavit in reply thereto on behalf of Respondent No. 4, which has duly authorized me in this regard.

At the outset, Respondent No.4 denies each and every statement, contention, allegation, submission and/or insinuation in the present Application or in the Appeal, which is contrary to and/or inconsistent with what is stated in the present



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Affidavit in Reply. Nothing contained in the present Application, or the Appeal shall be deemed to be admitted by the Respondent No.4 for want of traverse.

3. At the further outset, it is submitted that the under the provisions of section 16 of the National Green Tribunal Act, 2010 ("**the Act**"), an Appeal can be admitted after the prescribed period, only if the Appellant satisfies the Hon'ble Tribunal that he/she was prevented by sufficient cause from filing such Appeal within such period and allow it to be filed within a further period not exceeding 60 days.
4. The Appellant has filed the captioned Appeal against an Order for Environment Clearance (Order No. EC24B038MH135272 dated 08.02.2024) signed by Respondent No. 3, the then Member Secretary of SEIAA on behalf of SEIAA in favour of the Respondent No. 4 in respect of the Respondent No. 4's Proposed redevelopment of existing building under regulation 33(9) of DCPR - 2034 at plot bearing C. S. No. 582 F. P. No: 231 of TPS - III of Mahim division situated at Mughal lane, T.H. Kataria Marg, Chhatrapati Shivaji Maharaj cross road, G/N ward, Mumbai 400016, knowns as 'Jariwala Compound" (**said Project**).
5. The Appellant stated in the Appeal that the Appeal has been filed by the Appellant on 29th April 2024 after a delay of 51 days. Further, the Appellant has filed Application u/s 14 (3) of the Act, stating that the delay of 51 days may be condoned stating the reasons as mentioned in the Appeal for such delay.
6. At the further outset, Respondent No. 4 categorically denies all the allegations made by the Appellant in the Application of condonation of delay and the Appeal, being malicious, slanderous and being without any iota or documentary evidence in support thereof.
4. Respondent No. 4 submits that the Environmental Clearance Certificate ("**EC**") was granted on 8th February 2024 and the same was also published on the website of Ministry of Environment, Forest and Climate Change ("**MOEFCC**"). The Respondent No. 4 also published notices in Marathi as well as English newspaper "Navshakti" and "The Free Press Journal" on 20th August 2024 respectively



informing public at large about issuance of EC by the concerned Authority for the said Project.

5. As is evident from a perusal of the captioned Application, the Applicant has failed to set out any sufficient cause to justify condonation of delay in filing the Appeal. It is trite law that sufficient cause is a sine qua non for exercising power of condonation of delay. It is also well settled that the explanation of the cause must be that of the Appellant/Applicant and not of its Advocates. The Appellant has merely cited reasons such as personal difficulty, health issues, family priorities of the Advocate of the Appellant, which does not constitute sufficient cause for condonation of delay. Further, the purported issue of the website server of this Hon'ble Tribunal, as claimed by the Applicant is baseless and unsubstantiated. The Appellant has failed to bring on record a single document to support its aforesaid contentions for seeking delay condonation. It is settled law that in the event condonation of delay is sought, the party seeking such delay must explain each day's delay, which has clearly not been done in the present case. The Appellant has made broad sweeping references without providing any cogent or plausible reasons with supporting documents for the delay. On this ground, it is submitted that the present Application and the Appeal be dismissed with costs.
6. Respondent No.4 submits that the Appellant has failed to satisfy the Hon'ble Tribunal as to how he was prevented by any sufficient cause from prosecuting his case and the Hon'ble Tribunal has to examine whether the mistake is bonafide or is merely a device to cover the ulterior purpose. It is submitted that the Appellant apart from citing general reasons for condonation of delay has failed to point out sufficient cause for delay and the said Application which was filed in May 2024 is clearly an attempt to cover the delay in order to pursue the Appeal with ulterior motives. The Hon'ble. Tribunal should not allow the said Application since the Appellant has failed to give satisfactory explanation to justify the delay.
7. Respondent No. 4 submits that Appellant has relied on an incorrect computation of the number of days of delay so as to mislead this Hon'ble Tribunal and get the frivolous and baseless appeal admitted. It is stated by the Appellant in the Application that the Appeal has been filed after a delay of 51 days. In this regard,



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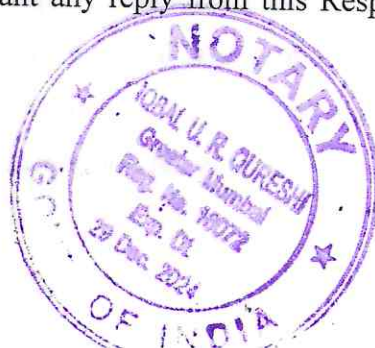
the computation of the number of days of delay by the Appellant is a pertinent aspect. This computation can be made only after one understands how the Environmental Clearance (EC) is granted or rejected by the STATE LEVEL ENVIRONMENT IMPACT ASSESSMENT AUTHORITY- MAHARASHTRA (SEIAA) the Respondent No.2 herein.

8. Respondent No. 4 further submits that the application filing, application review, application processing and application tracking is entirely online/electronic mode through the Government of India, **Ministry of Environment, Forests & Climate Change (MOEFCC)**'s **PARIVESH (Pro-Active and Responsive Facilitation by Interactive and Virtuous Environment Single-Window Hub Portal**. It is respectfully submitted that the MOEFCC has also published a User Manual titled "**ONLINE SUBMISSION AND MONITORING OF ENVIRONMENTAL CLEARANCES (OSMEC)**" in the year 2015 on (https://environmentclearance.nic.in/writereaddata/user_manual_b.pdf) wherein step-by-step guidance is provided in respect of filing of the application for EC on PARIVESH Portal and the next steps to be undertaken by the respective stakeholders, namely - the SEIAA and the State Environment Appraisal Committee (SEAC) for processing the application and eventually granting or rejecting the EC for the project. It is respectfully submitted that the entire process of grant of EC being conducted and tracked online on the PARIVESH portal, it concludes automatically as soon as the SEIAA uploads the minutes of its meeting in which the final decision on the application was taken and an e-mail gets generated simultaneously with the upload of the minutes. In the instant case, it has been admitted by the Appellant itself in the Appeal (at Paras 4.6, 4.7 and 4.8) that :

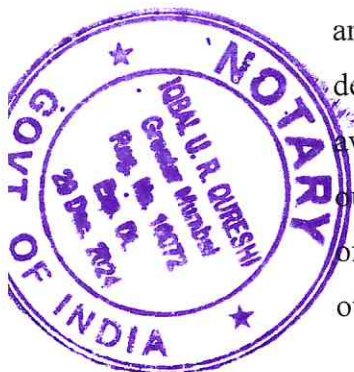
- a) The Respondent No. 4 applied for the EC before SEIAA Maharashtra on the PARIVESH Portal on 01.11.2023 (Para 4.6);
- b) The SEAC - II considered Resp. No. 4's proposal for appraisal in its 221st meeting and recommended the proposal for grant of the EC (Para 4.7); and
- c) The SEIAA then decided unanimously to grant the EC to Resp. No. 4's proposal/application in its 275th meeting held on 10.01.2024. (Para 4.8)



9. Thus, Appellant has not disputed that the entire process/workflow of the application filed by the Respondent No. 4 was completed by 10.01.2024. In fact, he has very much admitted the above facts in the Appeal. It is therefore respectfully submitted that when the entire application processing leading upto the grant of the EC has been recorded on the PARIVESH portal itself, and this reveals that the SEIAA meeting in which the decision to grant the EC was made before the expiry of SEIAA's term, it would be bad in law and incorrect to allege that SEIAA granted the EC to Respondent No. 4's said Project after expiry of its term. Respondent No. 4 states that the NGT Act itself doesn't permit us to do so. Hence, the Appeal is liable to be dismissed in-limine on the ground of laches.
10. It is further respectfully submitted that for this Hon'ble Tribunal to take cognizance of the matter on the generalized submissions made by the Appellant in the Appeal which do not even make a prima facie satisfaction of the Tribunal, is nothing but an abuse of the process of this Hon'ble Tribunal. The nondisclosure of evidence by the Appellant in support of his allegation and his past attempts at filing similar appeals against many other Project Proponents with prayer for similar reliefs further falsify the Appeal. Admitting such a frivolous appeal would be nothing but an abuse of the due process of law. Hence, the delay in filing the appeal is not liable to be condoned and the Appeal is resultantly liable to be dismissed in-limine.
11. Respondent No. 4 states that in para no. 4.7 of the Appeal, the Appellant vaguely and without checking correct facts stated that the Respondent No. 4 has not complied with the conditions.
12. Without prejudice to the above, I shall now deal with the Application paragraph wise:
- i) With reference to paragraph no. 1 and 2, I say that the contents of the said paragraph do not warrant any reply from this Respondent No.4 as it is a formal paragraph.

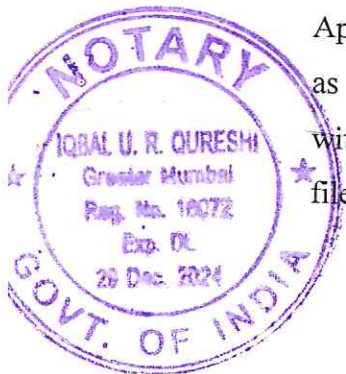


- ii) With reference to paragraph no. 3, the contents thereof are denied, and the Respondent No. 4 reserves its right to deal with the same as and when the same is referred to and relied upon by the Appellant.
- iii) With reference to paragraph no. 4.1, the contents thereof are denied in toto. I repeat and reiterate all that is stated in the present Affidavit and deny everything that is contrary to or inconsistent to what is stated herein. I am not aware and do not admit that the Appellant tried to upload/file the Appeal from 6th March 2024 to 9th March 2024 or that the same could not be filed due to technical problem as alleged or at all. I am not aware and do not admit that the Appellant issued an email to the registry of Hon'ble Tribunal, as alleged in the paragraph under reply. The Appellant has failed to produce a copy of such purported email communication.
- iv) With reference to paragraph no. 4.2, the contents thereof are denied. I repeat and reiterate all that is stated in the present Affidavit and deny everything that is contrary to or inconsistent to what is stated therein. I am not aware that the Appellant was only able to upload the EC and not the complete Appeal as stated in the paragraph under reply. It is unbelievable that a party can upload one document but not upload any other document using the same platform.
- v) With reference to paragraph no. 4.3 and 5.1, I deny that the delay in filing the Appeal is unintentional, as alleged or at all. I deny that the delay ought to be condoned as alleged or at all. I repeat and reiterate all that is stated in the present Affidavit and deny everything that is contrary to or inconsistent to what is stated therein.
- vi) With reference to paragraph nos. 5.2 and 5.3, the contents thereof are denied. I deny that the Appeal challenging the impugned EC was filed on 8th March 2024. I am not aware and do not admit that the registry of this Hon'ble Tribunal marked defects on 13th March 2024 to 18th March 2024 through online system. I am not aware and do not admit the statements in respect of the Appellant's Advocate, as set out in the paragraph under reply. In any event, sufficient cause must be in respect of the litigant and not its Advocates. Thus, even on demurrer, the contentions set out in the paragraph under reply cannot constitute sufficient cause, as alleged or at



all. In any event, the Appellant has failed to bring on record a single document to support its contentions in the paragraph under reply. Further, the contention in the paragraph under reply in respect of the Appeal being part of 105 Appeals is firstly denied for want of knowledge and is, in any event, not germane to the present Application and cannot constitute sufficient cause.

- vii) With reference to paragraph no. 5.4, the contents thereof are denied, save and except the fact that period of limitation for filing the Appeal is 30 days from date of communication of EC. It is denied that uploading the EC on website cannot be said to be communication. Be that as it may, it is further submitted that the Respondent No. 4 also published notices in Marathi as well as English newspapers on 20th August 2024 respectively informing public at large about issuance of Environmental Clearance for the said Project. The remaining contents of the paragraph under reply are denied for want of knowledge. The reasons given by the Appellant in the paragraph under reply for seeking delay condonation are insufficient and without any supporting documents to prove the same.
- viii) With reference to paragraph no. 5.5, the contents thereof are denied. The submission in the paragraph under reply is on merits and cannot be adjudicated in the present Application for condonation of delay. In any event, it is submitted that the present proceedings are entirely devoid of merit and nothing but an malafide attempt to extort monies from Respondent No. 4 and is a gross abuse of the process.
- ix) With reference to paragraph no. 5.6, it is denied that the default/delay caused in this case is genuine, as alleged or at all. It is further vehemently denied that there is no intentional disobedience or ignorance, as alleged or at all.
- x) With reference to paragraph no. 5.7, it is denied that the delay in filing the present Appeal ought to be condoned in the interests of natural justice or even otherwise, as alleged or at all. It is denied that the Appellant has filed the present Application with the Appeal as pleaded in the paragraph under reply. The said Application was filed in May 2024 and admittedly the Appeal was filed on 5th May 2024.



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- xi) With reference to paragraph no. 5.8, the contents thereof are denied. It is denied that in the larger interest of environmental justice, delay should be condoned, as the Appellant has failed to make out a case for delay condonation.
- xii) With reference to paragraph no. 6A and 6B, in view of what is set out hereinabove, the Appellant is not entitled to any relief, as there is no sufficient cause for condonation of delay in filing the Appeal. The present Application is baseless, misconceived and devoid of merit. It is further submitted that the Appellant has approached this Hon'ble Tribunal with unclean hands. In view thereof, this Hon'ble Tribunal be pleased to dismiss the captioned Appeal with exemplary cost.
13. For the reasons stated hereinabove, I submit that the said Application be dismissed with costs.



Advocate for Respondent No.4

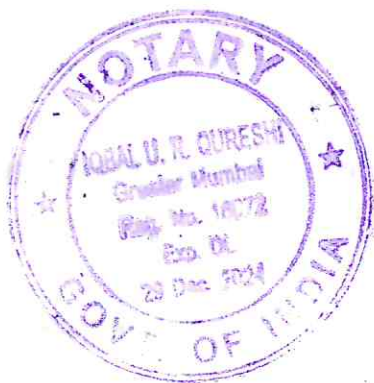
FOR & ON BEHALF OF
RAJ DOSHI EXPORTS PVT. LTD.



Ms. Pooja Haresh Mehta

DIRECTOR

Respondent No.4



VERIFICATION

I, Ms. Pooja Haresh Mehta, Indian inhabitant, being the Authorized Signatory of Respondent No.4 abovenamed, having my office at 407, Daulatbhuvan, Kalbadevi, Mumbai -400002 do hereby solemnly affirm and state that what is stated in the foregoing paragraphs is based on information and record which I believe the same to be true and nothing material has been concealed thereof.

Solemnly affirmed at Mumbai)

On this ___ day of September 2024)

12 SEP 2024

Spigare

Advocate for Respondent No.4

FOR & ON BEHALF OF
RAJ DOSHI EXPORTS PVT. LTD.

Pune

DIRECTOR



BEFORE ME

[Signature]
IQBAL U. R. QURESHI
NOTARY

Government of India
Greater Mumbai Maharashtra

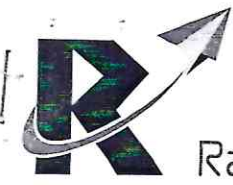
12 SEP 2024

NOTED & REGISTERED

Sr. No. 1354 Page No. 102

Book No. 16 Date 12 SEP 2024





RESOLUTION FOR APPOINTMENT OF AUTHORISED PERSON

CERTIFIED TRUE COPY OF THE RESOLUTION PASSED AT THE MEETING OF THE BOARD OF DIRECTORS OF M/S RAJ DOSHI EXPORTS PVT. LTD. HELD AT ITS REGISTERED OFFICE OF THE COMPANY SITUATED AT 407, GROUND FLOOR, DAULAT BHAVAN, KALBADEVI ROAD, MUMBAI -400002 ON 28/08/2024.

RESOLVED THAT Ms. Pooja H. Mehta, Director of the company [DIN: 07382970], be and is hereby authorized and empowered to represent M/s. Raj Doshi Exports Pvt Ltd in **Appeal No. 37 of 2024(WZ) with I.A. No. 92/2024 in Appeal No. 37/2024(WZ)** before the Hon'ble National Green Tribunal, Western Zone Bench, Pune.

FURTHER RESOLVED THAT Ms. Pooja H. Mehta is hereby authorized to do all such acts, deeds, and things as may be necessary or incidental to the conduct of the aforementioned appeal, including but not limited to:

- 1. Representing the Company:** Appear before the Hon'ble National Green Tribunal, Western Zone Bench, Pune, and represent the company in all matters relating to the said appeal and any related proceedings.
- 2. Execution of Documents:** Sign, execute, submit, and file all necessary pleadings, affidavits, undertakings, applications, appeals, and any other documents or papers as may be required by the tribunal or any other authorities in relation to the appeal.
- 3. Engagement of Legal Counsel:** Appoint and engage legal counsel, advocates, consultants, and any other professionals as may be required for the effective prosecution or defense of the company's interests in the said appeal.
- 4. Communication and Correspondence:** Make, sign, and deliver all necessary communications and correspondence with any party or authority concerned with the said appeal.

FURTHER RESOLVED THAT the acts, deeds, and things lawfully done by Ms. Pooja H. Mehta on behalf of the company shall be binding on the



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Raj Doshi Exports Private Limited

Daulat Bhuvan, Ground Floor, 407,
Kalbadevi Road, Mumbai - 400 002. India
Tel. : +912243669937 / 38 / 39
Email: rajdoshiexports@gmail.com

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company, and the company hereby ratifies and confirms all such acts, deeds,
and things done by her.

Dated this 28TH Day of August 2024

Certified True Copy



FOR M/S RAJ DOSHI EXPORTS PVT. LTD

MR. HARESH M. MEHTA MRS.HEMA H. MEHTA MS.POOJAMEHTA

Hareesh M. Mehta

DIRECTOR
[DIN:00566639]

Hema Hareesh Mehta
DIRECTOR
[DIN:00566701]

Pooja
DIRECTOR
[DIN:07382970]

**BEFORE THE HON'BLE NATIONAL
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Interim Application No. 92 of 2024
IN
Appeal No. 37 of 2024**

Sayed Mohammed Sabir Usman
... Applicant/ Appellant

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Union of India through secretary
MOEFCC & Ors. ... Respondents

Affidavit in Reply of Respondent No.4
to the Interim Application

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Dated : 13th day of September 2024

Sujata Pujare / Sonali Salaskar
Advocates for Respondent No. 4
8, Bombay Mutual Annex,
Ground Floor, 17,
Rustom Sidhwa Marg,
Near Residency Hotel,
Fort, Mumbai – 400 001
M: 9870483889 / 9892791689
Email:salaskarsonali@gmail.com
Email:sujatapujare@gmail.com