

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
WESTERN ZONE BENCH PUNE

INTERLOCUTORY APPLICATION NO. 104 OF 2024

IN

APPEAL NO. 48 OF 2024

IN THE MATTER OF:

MR. SAYYED MOHAMMED SABIR USMAN ...APPELLANT

VERSUS

UNION OF INDIA & ORS.RESPONDENTS

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

I, Anil Vijay Deshmukh, aged about 60 years, Indian inhabitant, having my office at 203-204, 2nd Floor, Orbit Plaza, New Prabhadevi Road, Prabhadevi, Mumbai – 400 025, have read and understood the contents of the captioned Appeal and Interlocutory Application for condonation of delay (hereinafter referred to as 'the said IA') and in reply thereto I have to state as under:-

1. At the outset I state that the Appeal as framed and filed by the Appellant is false, frivolous, misconceived, untenable in the law and liable to be dismissed with compensatory costs. I further say that the said Appeal has been filed with mala fide intentions and with the sole objective of arm twisting this Respondent into settlement. Further, the Appeal suppresses several crucial facts on which ground alone, the said Appeal and the said IA ought to



be rejected at the threshold itself by imposition of compensatory costs.

2. At the further outset, I deny all the statements, assertions, allegations made in the said IA insofar as they are contrary to what is stated in this Affidavit in Reply. I further say that no fact not specifically admitted in the present Reply should be deemed to be admitted by reason of non-traverse or otherwise.
3. I say that for the sake of brevity, the said IA is being dealt with in a para-wise manner. I say that the contents of Para 1 of the said IA are a matter of record and do not warrant a response.
4. The contents of Paragraph No. 2 of the said IA are denied and the Appellant is put to strict proof of the statements made therein. I specifically deny that the delay is unintentional as contended and I also deny that there has been any 'refilling' of the appeal as contended in the said Paragraph.
5. The contents of Paragraph No. 3 of the said IA are denied and the Appellant is put to strict proof of the statements made therein. I further deny all the statements, assertions, allegations made in the Appeal insofar as they are contrary to what is stated in this Affidavit in Reply. I further say that no fact not specifically admitted in the present Reply should be deemed to be admitted by reason of non-traverse or otherwise.
6. The contents of Paragraph No. 4.1 of the said IA are a matter of record. However, I specifically deny the contention of the Appellant that the Appeal was filed on 06.03.2024 and then refilled on 30.04.2024 the Appellant is put to strict proof of these statements. I say that if the Appeal was indeed filed on 06.03.2024, then there would be no reason to refile the same



once again on 30.04.2024. The said IA is rife with such inconsistencies and for these reasons alone, the same ought to be dismissed with exemplary costs.

7. The contents of Paragraph No. 4.2 of the said IA are denied and the Appellant is put to strict proof of the statements made therein. I further say that the Appellant has deliberately failed to annexe the purported email dated 09.03.2024 allegedly addressed to the registry.
8. The contents of Paragraph No. 4.3 of the said IA are denied and the Appellant is put to strict proof of the statements made therein.
9. The contents of Paragraph No. 5.1 of the said IA are denied and the Appellant is put to strict proof of the statements made therein. I specifically deny that the delay in filing the appeal was unintentional and I also deny that the Appellant has made out any case (good or otherwise) for condonation of the delay.
10. The contents of Paragraph No. 5.2 of the said IA are denied and the Appellant is put to strict proof of the statements made therein. I say and submit that the falsehood and inconstancy of the case of the Appellant is exposed in this Paragraph. In Para Nos. 4.2 and 4.3 hereinabove, the Appellant has alleged that he could not file the Appeal due to technical problems with the NGT website and that he was not able to upload the complete Petition and was only able to upload the EC on 12.03.2024. However, in the present Paragraph, the Appellant now states that the 'previous Appeal' was filed on 06.03.2024 and that the



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registry of the Hon'ble NGT marked defects on 13.03.2024 to 18.03.2024. The rest of the contents of the said Paragraph are also denied and the Appellant is put to strict proof of the statements made therein. I say that the Appellant has failed to annexe any documents to substantiate the statements made in the said Paragraph.

11. The contents of Paragraph No. 5.3 of the said IA are denied and the Appellant is put to strict proof of the statements made therein. I say that on the one hand, in Paragraph Nos. 4.2 and 4.3 the Appellant states that he tried to upload/file the Appeal from 06.03.2024 to 09.03.2024 which statement itself implies that the Appeal was fully ready for filing on 06.03.2024 itself. This being the situation, the reasons mentioned in the paragraph under reference are redundant and the falsehood of the same is exposed. I further say that the Appellant has failed to annexe any documents to substantiate the statements made in the said Paragraph.


12. The contents of Paragraph No. 5.4 of the said IA are denied and the Appellant is put to strict proof of the statements made therein. I deny that the Appellant did not have knowledge about the grant of the EC until the hearing in Appeal No.17/2024 took place on 28.02.2024. I further deny that there is no communication of the EC to the public at large and I say and submit that the Appellant had full knowledge of the grant of EC well before the hearing dated 28.02.2024 referred to in the said



Paragraph. I further deny that the Appellant took time to obtain documents, arrange documents, study the same, take expert & legal opinion and appoint an Advocate as alleged. I further say that the falsehood of the Appellant is exposed from the averments in Paragraph Nos. 4.2 and 4.3 wherein the Appellant states that he tried to upload/file the Appeal from 06.03.2024 to 09.03.2024 which statement itself implies that the Appeal was fully ready for filing on 06.03.2024 itself.

13. The contents of Paragraph No. 5.5 of the said IA are denied and the Appellant is put to strict proof of the statements made therein. I say that the contents of the said Paragraph relate to the merit of the dispute and the present Respondent reserves his right to make submissions thereon pursuant to a hearing of the said IA, if required.
14. The contents of Paragraph No. 5.6, 5.7 and 5.8 of the said IA are denied and the Appellant is put to strict proof of the statements made therein.
15. In light of the facts and reasons stated hereinabove, I say and submit that the, the reliefs prayed for at Para No. 6 ought to be rejected and the captioned IA ought to be dismissed with exemplary costs.


Advocate for Respondent No. 4


Respondent No. 4

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VERIFICATION

I, Anil Vijay Deshmukh, aged about 60 years, Indian inhabitant, having my office at 203-204, 2nd Floor, Orbit Plaza, New Prabhadevi Road, Prabhadevi, Mumbai – 400 025, do hereby solemnly affirm and state that what has been stated in paragraph Nos. 4 to 14 hereinabove is true to best of my own knowledge and belief save and except the legal submissions which I also believe to be true and correct.



Solemnly affirmed at Mumbai)

this 21st day of September 2024)

For Arihant Construction Co.

[Signature]
Partner

Respondent No. 4

Advocate for Respondent No. 4



Before me

BEFORE ME

[Signature]
R. B. GUPTA

B.Com., LL.B. Regd. No. 5001
NOTARY GOVT. OF INDIA
Resi: Room No. 88 8/8, Nanabhai Wadi,
S. P. Road, Wadala (E), Mumbai - 400 037.

21 SEP 2024



NOTED & REGISTERED
Sr. No. 7762 Page No. 90
Date 21 SEP 2024



**BEFORE THE NATIONAL GREEN
TRIBUNAL**

WESTERN ZONE BENCH, PUNE

APPEAL NO.48/2024 WZ

(I.A. NO.104/2024 WZ)

SAYYED MOHAMMED SABIR USMAN

VS.

UNION OF INDIA & ORS.

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

Dated this ___ day of September 2024



Mr. Sachin S. Gangan

Advocate for Respondent No.4