

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, AT NEW DELHI

I.A. NO. 63 OF 2024

IN

APPEAL NO. 05 OF 2024

IN THE MATTER OF:

Haryana State Pollution Control Board & Anr.

....

Appellants

Versus

M/s Malibu Estate Pvt Ltd. & Anr.

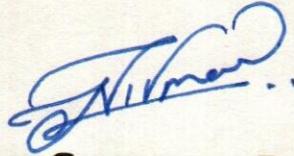
.....Respondents

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Place: Gurugram

Dated: 25.07.2024



**Regional Officer, Gurugram Region (N)
Haryana State Pollution Control Board**

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, AT NEW DELHI
I.A. NO. 63 OF 2024
IN
APPEAL NO. 05 OF 2024

IN THE MATTER OF:

Haryana State Pollution Control Board & Anr.

.... Appellants

Versus

M/s Malibu Estate Pvt Ltd. & Anr. Respondents

**REJOINDER ON BEHALF OF APPELLANT i.e.
HARYANA STATE POLLUTION CONTROL BOARD
TO THE REPLY OF RESPONDENT NO. 1**

MOST RESPECTFULLY SHOWETH:

- I. That at the outset, the appellant denies and rebut the allegations, fictitious & misconceived notion put by respondent by way of reply to application seeking condonation of delay. The submissions made by respondent to oppose the condonation of delay are illogical and ill-founded. Save as otherwise admitted herein, the contents of the reply are incorrect, untrue and nothing contents in reply be construed as an admission on the part of appellant/applicant. Before making parawise response of the reply, the appellant wishes to place



on record the legal proposition w.r.t. condonation of delay specially in Environmental matters.

II. That Hon'ble Supreme Court of India vide judgment dated 02.03.2021 passed in CIVIL APPEAL NO. 3136 OF 2020 (SRIDEVI DATLA Vs UNION OF INDIA &ORS.), held that this court is of the opinion that given the mandate of the NGT Act, the exercise of discretion, as was done in this case, to reject the appeal by dismissing the application for condonation of delay, on the ground that no sufficient cause was shown, was erroneous and based on a narrow reading of the law. An appeal to the NGT in such matters is no ordinary matter; it has the potential of irrevocably changing the environment with the possibility of likely injury. Application of judicial mind by an independent tribunal in such cases, at the first appellate stage, is almost a necessity.

III. That Hon'ble Supreme Court of India vide judgment dated 09.10.2023 passed in CIVIL APPEAL NO. 5867 OF 2015 (SHEO RAJ SINGH (DECEASED) THROUGH LRS. & ORS. Vs UNION OF INDIA & ANR.), held that an exercise of discretion does, at times, call for a liberal and justice-oriented approach by the Courts, where certain leeway could be provided to the State. The hidden forces that are at work in preventing an appeal by the State being



presented within the prescribed period of limitation so as not to allow a higher court to pronounce upon the legality and validity of an order of a lower court and thereby secure unholy gains, can hardly be ignored. Impediments in the working of the grand scheme of governmental functions have to be removed by taking a pragmatic view on balancing of the competing interests. Hon'ble Apex Court upheld the decision of High Court condoning the delay of 479 days in filing of appeal by Union of India.

- IV. That Bench of three Hon'ble Judge of Hon'ble Supreme Court of India, in State of Manipur & Ors. Vs Kating Lamkang (2019) 10 SCC 408 was of the view that the impersonal nature of the State's functioning should be given due regard, while ensuring that individual defaults are not nit-picked at the cost of collective interest.
- V. That this Hon'ble Tribunal in Appeal No.15/2023 allowed the application seeking condonation of delay of 57 days in filing the appeal. Copy of Order dated 16.05.2024 passed by this Hon'ble Tribunal is annexed herewith as **ANNEXURE-R/1**. The appellants caves liberty to produce the copy of Supreme Court Judgments referred in said order, during course of hearing.



- VI. That this Hon'ble Court vide order dated 09.10.2018 passed in Appeal No.83/2018 allowed the delay of 33 days in filing the appeal holding that the Appeal had to be filed by adopting the minimum procedure of the Department which includes approval of the concerning authority for filing an appeal, we are of the considered view that the delay caused in the instant case can neither be considered unduly or extraordinary. Copy of Order dated 09.10.2018 passed by this Hon'ble Court in Appeal No.83/2018 is enclosed herewith as **ANNEXURE-R/2.**
- VII. That appellants carves liberty to reply upon other judicial pronouncements in addition to the referred in preceding paragraphs.
- VIII. That the above subjected has been filed within condonable period of delay i.e. within 60 days after expiry of 30 days prescribed for filing of an appeal and condonation of such delay in filing of appeal is within powers of this Hon'ble Tribunal.
- IX. That the respondent has tried to mislead this Hon'ble Tribunal by alleging the delay of 101 days in filing the appeal. The respondent has calculated the period from date of impugned order rather from date of communication of impugned order. It is humbly submitted that bare language of Section 16 is clear to the effect that limitation to file appeal is



to be commenced from the date on which the order or decision or direction or determination **is communicated**. It is further submitted that respondent while arriving at calculation of 101 days has counted the period of scrutiny, receiving objections, re-filing after removal of defects, re-scrutiny and registration of appeal. Such calculation by the respondent is untenable and presented just to prolong the present lis and to avoid decision on merits. It is most respectfully submitted that there is delay of 53 days only in filing the appeal and sufficient cause has been shown to condone the delay.

Response to Preliminary Submissions:

1. That contents of para no.1 of the reply need no comments.
2. That in response to para no.2 of the reply, contents of preceding paragraphs no.I to IX are being reiterated.
3. That contents of para no.3 are incorrect, baseless and hence denied. It is incorrect that delay ought to be 59 days upon calculation from the date of the order i.e. 21.09.2023. It is humbly submitted that bare language of Section 16 is clear to the effect that limitation to file appeal is to be commenced from the date on which the order or



decision or direction or determination **is communicated.** It is also incorrect and vehemently denied that filing of appeal in defect on 19.12.2023 was only to avoid the discretionary period of limitation of sixty days. Such frivolous allegation is without any substance and liable to be rejected.

4. That contents of para no.4 are incorrect, baseless and hence denied. It has been submitted by the appellant that IA No.63/2024 does not disclose the fact that Appeal No.5/2024 was first filed in defect. In this regard, it is **FIRSTLY** submitted that application of condonation of delay was ready to be filed alongwith Appeal on 19.12.2023. But as per information received from counsel, since IA can be filed online after registration of appeal only, and it was not pre-supposed while drafting the IA that appeal will be in defects. Therefore, there was no occasion to disclose that appeal was filed in defects. **SECONDLY**, even otherwise, no law requires the mentioning of fact of defects in application seeking condonation of delay.

It is submitted at the cost of repetition that there is delay of 53 days in filing of appeal and delay has been explained adequately.

It is further submitted that date of registration of any case is irrelevant for counting of limitation of



case. It is further submitted that there are stages from filing till registration of case i.e. filing of case, scrutiny of case, noting the defects, re-filing after removal of defects, re-scrutiny of case and registration of case. It is strongly submitted that for computation of limitation date of first filing is relevant and not the re-filing, re-scrutiny or registration of case etc.

The respondent is misleading this Hon'ble Tribunal by making irrelevant and illogical submissions. It is categorically denied that appeal is much beyond the limitation period and is non-condonable.

It is submitted that neither there is suppress of fact of filing in defect nor there is delay of 101 days as alleged by para under rejoinder. These submissions are beyond the legal proposition and have been made in reply just for the sake of opposing the condonation of delay and to avoid the hearing of appeal on merits.

5. That in response to para no.5 of the reply, contents of preceding paragraphs no.I to IX are being reiterated.
6. That contents of para no.6 are incorrect, baseless and hence denied. It is incorrect that appellant/applicant has not stated the sufficient cause which had prevented in filing appeal within

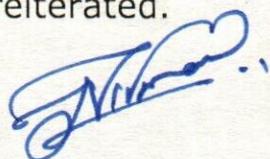


the limitation period of 30 days. It is categorically denied that delay is non-condonable and deliberate. The reasons stated in the IA No.63/2023 and contents of preceding paragraphs no.I to IX are being reiterated.

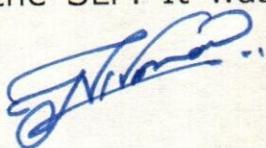
7. That contents of para no.7 of the reply are denied to the extent those are contrary to record. It is humbly submitted that case of Post Master General, cited by the respondent is not applicable in the present case of appellant. In case cited by the respondent, there was delay of 427 days in filing the SLP. The appellants reiterates the contents of preceding paragraphs no.I to IX and judicial pronouncements mentioned therein. It is incorrect that there was any lethargic attitude of any branch of the appellant. Each branch/division of the appellant has substantial work to be performed by them in official capacity.

Response to Parawise Reply:

1. That content of para no.1 need no comments.
2. That contents of para no.2 are wrong, incorrect and hence denied. Annexure-A/1 has been admitted to be sent via email dated 12.04.2024. It is incorrect that said attachment cannot be open. The contents of preceding paragraphs no.I to IX are being reiterated.



3. That contents of para no.3 are wrong, incorrect and hence denied. It is humbly submitted that case of Post Master General, cited by the respondent is not applicable in the present case of appellant. In case cited by the respondent, there was delay of 427 days in filing the SLP. It was not the Environmental Matter. The contents of corresponding paragraph of IA and preceding paragraphs no.I to IX are being reiterated.
4. That contents of para no.4 are wrong, incorrect and hence denied. It is humbly submitted that case of Post Master General, cited by the respondent is not applicable in the present case of appellant. In case cited by the respondent, there was delay of 427 days in filing the SLP. The contents of corresponding paragraph of IA and preceding paragraphs no.I to IX are being reiterated.
5. That contents of para no.5 are wrong, incorrect and hence denied. It is submitted that a party cannot be compelled to show the preliminary draft to opposite party unless same is finalised. And final appeal has been filed and shared with the respondent. It is humbly submitted that case of Post Master General, cited by the respondent is not applicable in the present case of appellant. In case cited by the respondent, there was delay of 427 days in filing the SLP. It was not the Environmental Matter. The



contents of corresponding paragraph of IA and preceding paragraphs no.I to IX are being reiterated alongwith judicial pronouncements mentioned herein above.

6. That contents of para no.6 are wrong, incorrect and hence denied. It is humbly submitted that case of Post Master General, cited by the respondent is not applicable in the present case of appellant. In case cited by the respondent, there was delay of 427 days in filing the SLP. It was not the Environmental Matter. The contents of corresponding paragraph of IA and preceding paragraphs no.I to IX alongwith judicial pronouncements mentioned herein above are being reiterated.
7. That contents of para no.7 are wrong, incorrect and hence denied. The contents of corresponding paragraph of IA and preceding paragraphs no.I to IX alongwith judicial pronouncements mentioned herein above are being reiterated.
8. That contents of para no.8 are wrong, incorrect and hence denied. It is humbly submitted that case of Post Master General, cited by the respondent is not applicable in the present case of appellant. In case cited by the respondent, there was delay of 427 days in filing the SLP. It was not the Environmental Matter. The contents of corresponding paragraph of IA and preceding paragraphs no.I to IX alongwith



judicial pronouncements mentioned herein above are being reiterated.

9. That contents of para no.9 are wrong, incorrect and hence denied. It is humbly submitted that case of Pathapati Subba Reddy, cited by the respondent is not applicable in the present case of appellant. In case cited by the respondent, there was delay of 5659 days in filing the proposed appeal against the judgment of the reference court under the Land Acquisition Act, 1894. It was not the Environmental Matter. The contents of corresponding paragraph of IA and preceding paragraphs no.I to IX alongwith judicial pronouncements mentioned herein above are being reiterated.
10. That contents of para no.10 are wrong, incorrect and hence denied. The contents of corresponding paragraph of IA and preceding paragraphs no.I to IX alongwith judicial pronouncements mentioned herein above are being reiterated. It is in the interest of environment that the appeal filed against non-compliant unit like respondent is heard on merits
11. That contents of para no.11 are wrong, incorrect and hence denied. The contents of corresponding paragraph of IA and preceding paragraphs no.I to IX alongwith judicial pronouncements mentioned herein above are being reiterated. It is submitted



that non complying unit should not be absolved from its liabilities and consequences by dismissing the appeal in question merely on the ground of limitation. The appeal filed in environmental matters filed within total 90 days from communication of impugned order should be allowed to be heard on its merits.

12. That contents of para no.12 are wrong, incorrect and hence denied. The contents of corresponding paragraph of IA and preceding paragraphs no.I to IX alongwith judicial pronouncements mentioned herein above are being reiterated. It is vehemently denied that delay caused in filing the appeal in non-condonable. It is in the interest of environment that the appeal filed against non-compliant unit like respondentis heard on merits.
13. That contents of para no.13 are wrong, incorrect and hence denied. It is categorically denied that there is suppression of vital fact regarding filing of appeal in defect. It is incorrect that there is delay of non-condonable 101 days. It is false and incorrect that case was deliberately filed in defect. It is also incorrect that there was further delay of 42 days. It is the respondent unit whose conduct is against the interest of environment.The appeal filed against non-compliant unit like respondent is heard on merits.The contents of corresponding paragraph of

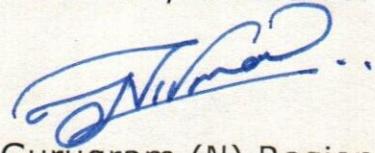


IA and preceding paragraphs no.I to IX alongwith
judicial pronouncements mentioned herein above
are being reiterated.

In view of the submissions made herein above, it is
humbly submitted that application seeking condonation of
delay may kindly be allowed in the interest of justice and
environment.

APPELLANT/APPLICANT

Through



Regional Officer Gurugram (N) Region

Place: Gurugram
Dated: 25.07.2024

BEFORE THE HON'BLE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, AT NEW DELHI

I.A. NO. 63 OF 2024

IN

APPEAL NO. 05 OF 2024

IN THE MATTER OF:

Haryana State Pollution Control Board & Anr.

.... Appellants

Versus

M/s Malibu Estate Pvt Ltd. & Anr. Respondents

I, Nirmal Kumar, Senior Environmental Engineer, HSPCB, working as Regional Officer at Gurugram with the Appellant Board, do hereby solemnly affirm and declare as under :

1. That I am the authorized representative of the Appellant Board in the above subjected appeal. I have gone through the records of the appellant Board. I have made myself conversant with the facts of the present case and therefore, I am competent to depose this affidavit.

2. That the accompanying rejoinder has been drafted under my instructions. I have read the contents thereof, the same are true and correct and may kindly be read as part of this affidavit as the same are not being repeated herein for the sake of brevity.



DEPONENT



VERIFICATION:

Verified at Gurugram on this 25th day of July, 2024 that the contents of above affidavit are true and correct to my knowledge derived from the officials records of the appellant board. Nothing material has been concealed therefrom.

ATTESTED



DEPONENT

SATISH KUMAR
ADVOCATE & NOTARY
DISTT GURGAON (HARYANA) INDIA

25 JUL 2024

25 JUL 2024

Item No. 14

Court No. 1

**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Appeal No. 15/2023
(I.A. No. 672/2023 & I.A. No. 641/2023)

M/s. Focus Energy Limited

Appellant

Versus

SEIAA, Haryana & Ors.

Respondent(s)

Date of hearing: 16.05.2024

**CORAM: HON'BLE MR. JUSTICE PRAKASH SHRIVASTAVA, CHAIRPERSON
HON'BLE MR. JUSTICE ARUN KUMAR TYAGI, JUDICIAL MEMBER
HON'BLE DR. A. SENTHIL VEL, EXPERT MEMBER**

Appellant: Mr. Pradeep Aggarwal, Mr. Sumit Sinha, Ms. Anjali Rajput & Mr. Arjun Aggarwal, Advs. for Appellant
Respondent: Mr. Rahul Khurana, Adv. for R - 1 & 2
Mr. Mahesh Thakur & Mr. Ranvijay Singh Chandel, Advs. for R - 3

ORDER

1. This appeal has been filed challenging the order dated 01.05.2023 passed by respondent no. 1, SEIAA, Haryana under Section 16 of NGT Act, 2010. There is delay of 57 days in filing this appeal therefore I.A. No. 641/2023 has been filed by the appellant seeking condonation of delay.

2. Submission of Learned Counsel for the appellant is that the order dated 01.05.2023 was served upon the appellant by post on 10.05.2023. Thereafter, the appellant vide letter dated 18.05.2023 addressed to the Respondent no. 3 had raised the issue that Respondent No. 1 had not followed the due procedure and had in substance prayed for review of the order. Thereafter the appellant had submitted the reminder letter dated 26.06.2023 to the respondent no. 3 and when no action was taken the appeal was filed on 26.07.2023 with a delay of 57 days.

3. Relying upon certain judgments of NGT and Hon'ble Supreme Court counsel for the appellant has prayed for condonation of delay on the plea that a liberal approach is required to be adopted especially when environmental issues are complicated.

4. Learned counsel for respondents has opposed the delay application. Counsel for the Respondent 1 & 2 have submitted that since there is no power of review with the authority therefore no purpose was to be served by submitting any representation to the respondents.

5. We have heard the learned counsel for the parties and perused the records. The limitation of filing the appeal is 30 days, thereafter, the Tribunal has the power to condone the delay upto 60 days. In the present case the applicant has been filed seeking condonation of delay which is within 60 days from the date of expiry of original limitation for filing the appeal. Counsel for the appellant has relied upon the order of NGT in the matter of *Jaya Mathachan Vs. Ministry of Environment, Forest & Climate Change*, 2021 SCC Online 1024 wherein there was an delay in filing the appeal and the Tribunal referring to the earlier order had held:

*“18. Further, in the recent decision in Sridevi Datla v. Union of India which was taken up by the appellant in that case against the order passed by the Tribunal in **M.A. No. 231 of 2017 in Appeal No. 18/2020 as Civil Appeal No. 3136 of 2020 dated 31.07.2020** holding that the appeal was filed beyond 90 days, as it was filed on the 91st day and also after holding that the delay of even 90 days has not been properly explained, but the Hon'ble Apex Court had observed that this Tribunal, while considering the delay condonation, should not have taken such a pedantic view that each day delay had not been properly explained, especially when the substantial environmental issues have been raised and set aside the order passed by this Tribunal and condoned the delay in filing the appeal and sent back the matter to this Tribunal to consider the appeal on merit.*

19. So, if the principle laid down in the above decision has been followed, the Court must be liberal in considering the condonable period of delay in filing the appeal and an opportunity must be given to the parties to meet the case on merit, instead of dismissing the appeal on technical ground of limitation.”

6. He further placed reliance upon the order of the Tribunal in the matter of *Dyaneshwar Vishnu Shedge vs. Union of India* SCC Online NGT 80 wherein the Tribunal had observed as under:

“13. On consideration of the submissions advanced interse by the parties, we feel in a case like the present one, where the Environmental impact of the project on local population in terms of their environmental harm, has to be assessed, the approach of this Tribunal, especially set up for the said purpose, should be liberal and not “hyper-technical”.”

7. The judgment of Hon’ble Supreme Court in the matter of *Shridevi Datla Vs. Union of India*, (2021) 5 SCC 321 has been relied upon wherein the Tribunal had rejected the applicant for condonotion of delay and consequently dismissed the appeal and this order was subject matter of challenge before the Hon’ble Supreme Court and the Hon’ble Supreme Court while setting aside the order of the NGT and condoning the delay had observed that:

“14. Environmental disputes are complicated and entail expertise in diverse fields (such as ecology, chemistry, biology, economics, administration, management, law, etc.) for their determination in an effective and speedy fashion, that is not possible within the regular judicial and administrative set up in India. In other words, environmental disputes relating to forests, biodiversity, air and water are complicated in nature; resolving and expeditiously disposing of these cases is not possible without a separate special court. Environmental courts or tribunals have been a long-standing demand for other reasons too. For effective prevention and control of environmental protection, there was an urgent need for a separate environmental court or tribunal to adjudicate without much delay. India is a party to the United Nations Conference on the Human Environment (known as the Stockholm Conference), 1972 where it made commitments relating to safeguarding of natural resources and developing international law, and to provide compensation to victims of pollution and other environmental degradation.

xxx.....xxx.....xxx

30. *This Court is of the opinion that there is merit in the appellant's argument. The respondents, especially, the project applicant, had urged that the appellant is an interested party, and cannot be called a public-spirited citizen, because she had opposed acquisition of land for the airport and therefore, was able to access legal advice at the High Court stage. There is, in our opinion, nothing in the NGT Act which excludes parties who would be directly affected by a project, that has environmental repercussions, from accessing the tribunal*

(NGT). Likewise, characterising the nature of legal advice that can be accessed for challenging land acquisition, as similar to a challenge to environmental clearance which involves application of mind to technical issues in a detailed manner, would be unfair and simplistic. Scientific or technical support — apart from expert professional legal advice is necessary, if NGT were to be approached. In these circumstances, this Court is of the opinion that given the mandate of the NGT Act, the exercise of discretion, as was done in this case, to reject the appeal by dismissing the application for condonation of delay, on the ground that no sufficient cause was shown, was erroneous and based on a narrow reading of the law. An appeal to NGT in such matters is no ordinary matter; it has the potential of irrevocably changing the environment with the possibility of likely injury. Application of judicial mind by an independent tribunal in such cases, at the first appellate stage, is almost a necessity.”

8. He has also placed reliance upon Judgment of Hon’ble Supreme Court in the matter *Maniben Devraj Shah Vs. Municipal Corporation of Brihan Mumbai*, 2012 5 SCC 157 wherein Hon’ble Supreme Court considering scope of the expression “sufficient clause” in Section 5 of the Limitation Act has held that:

“24. What colour the expression “sufficient cause” would get in the factual matrix of a given case would largely depend on bona fide nature of the explanation. If the court finds that there has been no negligence on the part of the applicant and the cause shown for the delay does not lack bona fides, then it may condone the delay. If, on the other hand, the explanation given by the applicant is found to be concocted or he is thoroughly negligent in prosecuting his cause, then it would be a legitimate exercise of discretion not to condone the delay.”

9. Having regard to the above position in law and considering the explanation which has been furnished by the appellant in the application for condonation of delay and also taking note of the fact that the delay is of 57 days whereas the Tribunal has the power to condone the delay upto 60 days, we find that a sufficient cause is shown by the appellant and a good ground is made out to condone the delay.

10. Accordingly, I.A. No. 641/2023 is allowed and delay is condoned.

11. Learned Counsel for the appellant has pointed out that the writ petition (c) No. 1394/2023 is still pending before the Hon’ble Supreme

Court wherein the correctness of the O M on the basis of which the order impugned in this appeal is under challenged.

12. He submits that meanwhile the appellant wants to press his applicant for stay in this appeal. Learned Counsel for the respondents seek time to prepare on the issue of interim relief.

13. List on 04.07.2027.

Prakash Shrivastava, CP

Arun Kumar Tyagi, JM

Dr. A. Senthil Vel, EM

May 16, 2024
Appeal No. 15/2023
HB

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**BEFORE THE NATIONAL GREEN TRIBUNAL
PRINCIPAL BENCH, NEW DELHI**

Appeal No. 83 of 2018

(M.A. No. 904 of 2018 & M.A. No. 905 of 2018)

In the matter of :-

Haryana State Pollution Control Board &Anr.

Vs.

M/s. Sweta Estates Pvt. Ltd. Gurgaon

**CORAM : HON'BLE MR. JUSTICE RAGHUVENDRA S. RATHORE, JUDICIAL MEMBER
HON'BLE DR. SATYAWAN SINGH GARBYAL, EXPERT MEMBER**

**Present: Appellant: Mr. Anil Grover, AAG for State of Haryana, with
Mr. Rahul Khurana and Mr. MishalVij, Advs.
Respondent no. 1 Mr. Sanjay Upadhyay, Mr. Bhawar Pal Jadon,
Ms. UpamaBhattacharjee&Mr.Prakhar Pandey,
Adv.**

	Date and Remarks	Orders of the Tribunal
	<p>Item No. 02 October 09, 2018</p>	<p>This Misc. Application (904 of 2018) has been filed by the Appellant to condone the delay in filing the Appeal. There is no dispute about the fact that this Appeal is time barred by 33 days. In this Appeal filed by Haryana State PCB & Anr. against the order dated 15/03/2018 passed by the Appellate Authority under the Water (Prevention and Control of Pollution) Act, 1974 and Air (Prevention and Control of Pollution) Act, 1981.</p> <p>The said order passed by the Appellate Authority was sent to the Chairman of the Appellant Board along with a covering letter dated 28th March, 2018. The Appellants have filed an Application for condonation of delay along with the Appeal with the prayer for condoning the delay. It has been averred in Misc. Application that after receipt of the impugned order the matter was examined by the competent authority. After considering the impugned order as well as all other relevant materials, it was decided by the authority concerned to challenge the impugned order before the Tribunal. In furtherance thereof, it is stated, that the Counsel for the PCB prepared</p>

	<p>Item No. 02</p> <p>October 09, 2018</p>	<p>the Appeal and some time was taken to collect the documents. In these circumstances, it has been stated in the Application that the Appeal could not be filed within 30 days.</p> <p>The Learned Counsel for the Respondents have opposed the Application for condonation of delay by filing a detail reply. In short, it has been submitted in the reply to the Application that there is a huge delay of 33 days in filing the Appeal. Further, it has been stated in the reply that there is no proof to show that there was sufficient cause to condone the delay. Infact, it has been stated that the Appellant has led the time go and did not take appropriate steps. In support of his submissions, the non-Applicants have placed reliance on the case laws wherein it has been held that there should not be undue obstruction in sustainable development; the law of limitation is to be applied with great circumspection; the court may condone the delay but if it is found that the parties seeking condonation of delay lacks bonafide, condonation of delay in each case is a question of fact and while exercising the discretionary powers after sufficient cause is shown would naturally be limited only to such facts as the court may regard as relevant.</p> <p>The Respondent has also relied on the case of Oriental Insurance Co. Ltd. Vs. Kailesh Devi &Ors., AIR 1994 Punjab and Haryana 45, wherein it was laid down that there is no denying the fact that the expression sufficient cause should normally be construed liberally so as to advance substantial justice. Similarly, reliance has been placed on the case of Collector, Land Acquisition</p>
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	<p>Item No. 02</p> <p>October 09, 2018</p>	<p>Anantnag Vs. Ms. Katiji&Ors., AIR 1987 SC 1353 and the principle of liberal approach was referred to understand the meaning of the term sufficient cause.</p> <p>After considering the submissions made by the Learned Counsels for the rival parties, we are of the view that there is no doubt about the fact that there should be sufficient cause for condonation of delay but then, it depends upon facts of each case so as to see that there is no undue delay or extraordinary delay in filing the Appeal. It is a matter of common knowledge, as to what is the official procedure when the State or its authorities are to file an Appeal before the Higher Court. Such procedure do require more time than what is taken in normal course by an individual while filing an Appeal. However, a court has to see as to whether there had been any latches on the part of the State or its authorities while taking steps for filing an appeal. It is also true that in functioning of the State some time is definitely required before an Appeal can be filed before the Court. It is the facts and circumstances of each case which has to be seen as to whether there is sufficient cause to condone the delay or not. It is not required that proof of sufficient cause to condone the delay has to be filed.</p> <p>It goes without saying that a Court while considering the prayer with regard to condonation of delay has to, in its wisdom, exercise the discretionary powers. Such exercise has to be based on equitable principles which is very much applicable in respect of law of limitation. As has been held in the case of Oriental Insurance Co. Ltd. (Supra), the expression sufficient cause</p>
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<p>Item No. 02</p> <p>October 09, 2018</p>	<p>is to be normally construed liberally so as to advance substantial justice. It is for the sake of advancing substantial justice that the court has to look into the question of sufficient cause. It is also to be seen as to whether any negligence or inaction or want of bonafide is imputable to the Applicant or not. As laid down in the case of R.B. Ramlingam Vs. R.B. Bhavaneshwari, 2009 (2) Scale 108, the true guide as to whether the petitioner has acted with reasonable diligence in prosecution of his appeal or not.</p> <p>As laid down in the case of Collector, Land Acquisition Anantnag (Supra), the principle of liberal approach was referred to understand the meaning of the term sufficient cause.</p> <p>In view of the above and taking into consideration the fact that this Appeal has been filed by the State PCB, against the order passed by the Appellate Authority which was received by it on 28th March, 2018 and the Appeal was filed on 31st May, 2018 resulting in delay of 33 days as well as the fact that the Appeal had to be filed by adopting the minimum procedure of the Department which includes approval of the concerning authority for filing an appeal, we are of the considered view that the delay caused in the instant case can neither be considered unduly or extraordinary.</p> <p>Therefore, we deem it just and proper to allow the Misc. Application No. 904 of 2018. It is ordered that delay caused in filing the Appeal be condoned. There shall be no order as to cost.</p>
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	<p>Item No. 02</p> <p>October 09, 2018</p>	<p><u>Main matter</u></p> <p>List this matter on 22nd October, 2018.</p> <p>.....,JM (Raghuvendra S. Rathore)</p> <p>.....,EM (Dr. Satyawan Singh Garbyal)</p>
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