

**BEFORE THE NATIONAL GREEN TRIBUNAL
WESTERN ZONE, PUNE AT PUNE**

Appeal no. 132/2024 (WZ)

IA no. 194/2024(WZ)

Tanaji B. Gambhire

Appellant.

V/s.

Union of India & others

Respondents

Reply to the application on Condonation of Delay by and on behalf of the Respondent no. 9 i.e. Vascon Engineers Ltd is as Under:

1. At the outstate the contents of the application under reply for Condonation of Delay filed by the Applicant/Appellant is not maintainable either in law or on facts and the same is liable to be rejected, the entire contents of the application are vexatious, meritless, incorrect, and not admitted by this respondent hence the application is liable to be rejected with heavy costs.

2. The Application under reply filed by the appellant seeking condonation of Delay being an unintentional Delay whereas considering the modus operandi of the Applicant while filing the present appeal initially and the orders of this Hon'ble court, the said delay is intentional and the same should not be condoned on the ground of interest of justice or equity as the Appellant/Applicant is failed to seek equitable relief by the acts

and pleadings of the Appellant/Applicant. Moreover the Applicant/Appellant is also not entitled for any leniency to be shown to the Appellant.

3. The Applicant/Appellant has challenged the EC dated 09/02/2024 granted to the project proponent i.e. respondent no 9, inter-alia; the SEIAA is not in operation due to its expiry of tenure as notified on 11/01/2021 by the Ministry of Environment, Forest and Climate Change (MOEFCC) and EC is ex-post facto and not permissible in the eyes of law, by filing the aforesaid Appeal under Section. 16 of NGT Act on 7th May 2024 wherein there is a delay of 59 days in filing this Appeal by the Applicant/Appellant. The respondent opposes the said applications on the various grounds as mentioned hereunder.

a) The Applicant/Appellant arbitrarily states that; the Applicant/Appellant tried to file the Appeal from 6/03/2024 to till 9/03/2024, however due to technical problem with the NGT website he could not upload the said Appeal successfully and thereafter he was only able to upload impugned EC on 12.03.2024 with successful payment, the said statement is denied by the respondent, as no any reason is put forth by the Appellant/Applicant as to why only Appeal is not filed on Website, when the Appellant/Applicant is able to file impugned EC on record, for the sake of brevity it is assumed that there was a technical problem with the uploading then the Appellant should not have able to upload the impugned EC also and therefore the reason put forth by the Appellant/Applicant is not reasonable and genuine, the appellant with an ill motive of harassing this

Respondent and the authority and creating nuisance, has purposefully uploaded the EC and made the payment just to generate the diary No. on the website of the Hon'ble Court on the relevant date as the appellant was not ready with the entire compilation of the Appeal. The said act of the Appellant/Applicant is recorded by the Hon'ble Tribunal while passing order dated 29/04/2024. Hence the present application for Condonation of delay, being wrong, false, misleading, concocted and imaginary is liable to be rejected on this ground only.

b) The Applicant/Appellant further stated that from the bunch of 105 Appeals being large number of documents, created confusion in numbering, NGT website upgradation caused more confusion during the uploading and the documents got mixed up with the other documents," however the same totally denied and not admitted by this Respondent as the website of the NGT is the updated version and the appellant is trying to mislead the tribunal and take undue advantage of upgradation of Website, All the Appeals filed in the NGT Court receives the different number, anyone can easily understand the defect/rejection and get it verified and re-upload the same on the particular date only. Hence on the said ground the said application for Condonation of delay, is liable to be rejected also.

c) The Applicant/Appellant has taken the plea that the Applicant/Appellant being the advocate is in his personal difficulty of facing serious health issues and priorities on family to be attended on urgent basis, whereas the Applicant/Appellant has not filed any documents related to the medical/Health issues faced

by him or his family members, further the said reason is not put forth by the Appellant/Applicant while the objection hearing of the case at the time of passing of order dated 29/04/2024, hence the same is denied and not admitted by this respondent, the mere statement/allegation in the Application, would not suffice the genuinity of the allegations of the Appellant/Applicant with respect to the Heath issues and thus the same is not admissible in law and hence the said application for Condonation of delay on this ground liable to be rejected in toto.

4. The respondent states that, the Hon'ble Justice Dinesh Kumar Singh and Judicial member Hon'ble Vijay Kulkarni of the Hon'ble tribunal has after thorough scrutiny rejected the Appeal filed by the Applicant/Appellant vide their combined Order dated 29/04/2024 wherein it is clearly held by the tribunal that; "the applicant/appellant have only uploaded through e-filing acopy of Environment Clearance (EC) Certificate and generated the Dairy Number thereafter the Registry has asked the applicant to remove the defect by loading the complete site of Appeal alongwith Annexures however, No steps were taken by the applicant/appellant." This clearly shows the modus operandi adopted by the Appellant/Applicant so as to create nuisance and harass this Respondent and also the authority, and therefore the afterthought, myth application with imaginary grounds for condonation of delay is filed by the Appellant/Applicant and considering the equitable reliefs claimed by the Appellant/Applicant, the same cannot be granted to the Applicant as it is the settled principles of law that a person seeking equity must do equity. It is further submitted pursuant to the said order of

this Hon'ble Tribunal dated 29/04/2024 the Appellant/Applicant is trying to cover up the lacunae and putting forth the concocted, afterthought and imaginary story, thereby misleading the Hon'ble Tribunal and also the Applicant/Appellant has changed his stand and suppressed the findings of the aforesaid Order passed by this Hon'ble Tribunal and only taking advantage of the operative part of the order, hence the applicant has not come before this Hon'ble tribunal with clean hands. It is further submitted that in the event the present application is rejected no loss, hardship or prejudice of any kind would be caused to the applicant/appellant as the Applicant/Appellant being a third party Environment Activist is not the aggrieved party as contemplated in Section 16 of the NGT Act. On the other hand if the said application is allowed and the said intentional, deliberate, willful delay is condoned, an irreparable loss and injustice would be caused to this respondent as a project proponent. Therefore the present application for Condonation of Delay is liable to be rejected subject to heavy costs.

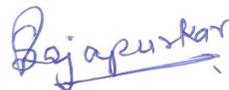
5. It is therefore prayed that :-

a) The application for Condonation of Delay filed by Applicant/Appellant being devoid of merits, be rejected with heavy cost.

b) Any other order in the interest of justice be passed.

Pune

Date: 20/08/2024

 Bajapurkar

 Respondent no. 9

Advocate for Resp. 9



Before the National Green Tribunal Western Zone, Pune At Pune

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AFFIDAVIT IN SUPPORT OF IA REPLY FOR CONDONATION OF DELAY

I Mr. Somnath Biswas Age- 57, occ- Service authorized signatory of VASCON ENGINEERS LTD, i.e. the respondent no.9, having its registered address at Vascon – Weikfield Chambers, Behind Hotel Novotel, Pune-nagar road Pune-411014, do hereby state on solemn affirmation that:

I state that, I am aware with the facts and circumstances of the above case being an authorized signatory of respondent no.9 and I am filing the reply to the application for Condonation of Delay filed by the applicant herein and in such capacity I am competent to depose on this Affidavit.

I have read the contents mentioned in para no. 1 to 7 in the accompanying reply of IA along with the annexure filed with it and the same are true and correct and the best of my knowledge, information and belief and hence whereof I have affirmed and verified the same on this 20th day of August 2024 at Pune.

For Vascon Engineers Limited

Authorized Signatory

Affiant

I Know the Affiant

Rajapurkar

Advocate

Noted & Registered

at Sr. No. A6860/24

BEFORE ME

JAGANNATH G. GHUGE
NOTARY
GOVERNMENT OF INDIA
REG. NO. 838
THROUGHOUT INDIA

20 AUG 2024

