

NATIONAL COMPANY LAW APPELLATE TRIBUNAL PRINCIPAL BENCH,
NEW DELHI

Competition App. (AT) No. 53 of 2022

IN THE MATTER OF:

Jawahar Brothers

...Appellant

Versus

People's All India Anti-Corruption and Crime Prevention Society & Ors.

...Respondents

Present:

For Appellant : Ms. Kanupriya Tiwari, Mr. Ashish Kr. Pandey, Mr. Gaurav Chaudhary, Adv

**For Respondents : M M Sharma, Adv for CCI.
Pawan Sharma, Anuj Shah, Adv for R2
Pawan Reley, Akshay Lodhi, Simran Singh, Adv for R4
Shama Nargis, Dy. Director for CCI**

O R D E R

Per : Justice Rakesh Kumar Jain (Oral)

24.08.2023 This appeal is directed against the order dated 17th March, 2023 passed by the 'Competition Commission of India' (for short 'The Commission') under Section 27 of the Competition Act, 2002 (for short 'The Act') in Case No.90 of 2016.

2. At present, we are dealing with an application bearing IA No. 4258 of 2022 purported to have been filed for condonation of delay in filing of the present appeal.

3. Counsel for the Appellant has submitted that though a period of 60 days is prescribed for filing of the appeal but the Appeal has been filed after a delay of 92 days, therefore, the Appellant has filed this application seeking

condonation of delay. The reason assigned in the application in para 3 is that *“It is respectfully submitted that the Appellant’s concerned person has been travelling out of town to the medical condition and therefore it took some time in obtaining the instruction to file the Appeal, thus the unwarranted delay in preferring the appeal has occurred.”*

4. Counsel for the Respondent has submitted that the reasons assigned for condonation of delay is concocted, therefore, the application deserves to be dismissed.

5. We have heard counsel for the parties and perused the record.

6. Section 53(B) of the Act deals with the Appeal to the Appellate Tribunal and the same is reproduced as under:

“53B Appeal to Appellate Tribunal. —

(1) The Central Government or the State Government or a local authority or enterprise or any person, aggrieved by any direction, decision or order referred to in clause (a) of section 53A may prefer an appeal to the Appellate Tribunal.

(2) Every appeal under sub-section (1) shall be filed within a period of sixty days from the date on which a copy of the direction or decision or order made by the Commission is received by the Central Government or the State Government or a local authority or enterprise or any person referred to in that sub-section and it shall be in such form and be accompanied by such fee as may be prescribed: Provided that the Appellate Tribunal may entertain an

appeal after the expiry of the said period of sixty days if it is satisfied that there was sufficient cause for not filing it within that period.

(3) On receipt of an appeal under sub-section (1), the Appellate Tribunal may, after giving the parties to the appeal, an opportunity of being heard, pass such orders thereon as it thinks fit, confirming, modifying or setting aside the direction, decision or order appealed against.

(4) The Appellate Tribunal shall send a copy of every order made by it to the Commission and the parties to the appeal.

(5) The appeal filed before the Appellate Tribunal under sub-section (1) shall be dealt with by it as expeditiously as possible and endeavour shall be made by it to dispose of the appeal within six months from the date of receipt of the appeal.”

7. Section 53(2) of the Act provides that every appeal under sub-section (1) shall be filed within a period of sixty days from the date of obtaining the certified copy. However, the proviso to this section says that the Appellate Authority shall still have the power to entertain the appeal after the expiry of sixty days if it is satisfied that there was sufficient cause for not filing the appeal within that period.

8. Admittedly, the impugned order was passed on 17th March, 2021 and immediately the copy was obtained of the impugned order by the Appellant within 10 days thereafter. However, it is not disputed that the Appeal was filed on 22.09.2022.

9. Counsel for the Appellant has argued that in Suo Motu Writ Petition (C) No. 3 of 2020 passed by the Hon'ble Supreme Court decided on 10.01.2022 the period of limitation has to be excluded from 20.03.2020 till 31.05.2022. It is submitted that despite the concession has been given by the Hon'ble Supreme Court, a delay of 92 days has occurred.

10. The reason given by the Appellant for condonation of delay is that the Appellant's concerned person was travelling out of town due to medical condition and therefore, he took some time to obtain the instruction to file the application.

11. The aforesaid reason does not inspire confidence as it is not a sufficient cause. The Impugned order was passed on 17.03.2021. Even if the copy was obtained after 10 days thereafter still the Appellant got 18 months in filing the appeal i.e. counted from 01.04.2021 till September, 2022. Nothing has been shown in the application about the date when the concerned person was travelling. It cannot be believed that concerned person was travelling for 18 months out of town due to medical condition.

12. With the aforesaid observations, we are satisfied that there is no sufficient cause assigned by the Appellant for the purpose of condonation of delay for filing the appeal. Consequently, the application bearing IA no. 4258 of 2022 is hereby dismissed. Accordingly, the present appeal bearing Competition Appeal (AT) No. 53 of 2022 is also dismissed.

[Justice Rakesh Kumar Jain]
Member (Judicial)

[Mr. Naresh Salecha]
Member (Technical)