

**BEFORE THE SECURITIES APPELLATE TRIBUNAL
MUMBAI**

**Misc. Application No. 54 of 2008
And
Appeal No.87 of 2008**

Date of decision: 27.06.2008

N.E. Electronics LimitedAppellant

Versus

Securities and Exchange Board of India ...Respondent

Mr. Ajai Fernandis Advocate for the Appellant.
Mr. Mihir Mody Advocate for the Respondent.

CORAM : Justice N.K. Sodhi, Presiding Officer
Arun Bhargava, Member
Utpal Bhattacharya, Member

Per : Justice N.K. Sodhi, Presiding Officer (Oral)

This order will dispose of Appeals nos. 87 and 88 of 2008 and also the miscellaneous applications filed therein seeking condonation of delay.

There is a delay of 869 days in filing these appeals. Applications have been filed seeking condonation of delay. In Appeal no.87 the applicant states that the delay was caused when it shifted the registered office of the company from Jajodia Bhavan, Tokobari, Near Railway Gate No.3, Guwahati to Doshi Bhavan, Paltan Bazar, Guwahati, and it was during the course of the shifting that certain documents/files were misplaced and the impugned order in this appeal was one of them. It is further stated that the applicant became aware only when it received a letter dated 8.1.2008 from the respondent Board on February 7, 2008 calling upon the applicant to deposit the penalty amount of Rs. one lac and it was then that the applicant searched all its files and found the impugned order. The appeal was filed in the registry on 29.2.2008 which is directed against the order dated December 30, 2004 imposing a monetary penalty of Rs.1 lac on the appellant/applicant. When the appeal was presented in the registry an objection regarding limitation was raised and the appellant was informed to file an application seeking condonation of delay. The application came to be filed only on 12.06.2008. The

learned counsel for the applicant states that a sufficient cause has been made out in the application and that the delay be condoned. We do not think so. Mere ipse dixit of the applicant as stated in para 2 of the application can not be accepted. The averment is as vague as it could be. It is not stated as to when the registered office of the company was shifted. The application seeking condonation of delay was filed after a lapse of more than three months of the filing the appeal. We are satisfied that the applicant is guilty of culpable negligence in not filing the appeal within time. It appears that the appeal has been filed belatedly because the appellant learnt about an order passed by this tribunal in Laffan Software Ltd. vs Securities and Exchange Board of India in Appeal no. 44 of 2005 decided on 12.9.2006 in which under somewhat similar circumstances the monetary penalty imposed on the appellant therein had been reduced from Rs.1 lac to Rs. 20,000/-. All that the learned counsel for the appellant contends is that the present case is identical to that of Laffan Software and, therefore, the delay be condoned and penalty be reduced as in that case. Since no cause, much less sufficient cause has been shown for the inordinate delay which is the result of culpable negligence on the part of the applicant, we decline to condone the delay. Consequently the application is dismissed. Appeal no. 87 of 2008 is also dismissed as barred by time.

In Miscellaneous Application no. 55 of 2008 filed in Appeal no. 88 of 2008 the ground on which the delay is sought to be condoned is slightly different though equally vague and we are not willing to accept the ipse dixit of the applicant. That application is also dismissed and also the appeal on the ground of limitation.

Sd/-
Justice N.K.Sodhi
Presiding Officer

Sd/-
Arun Bhargava
Member

Sd/-
Utpal Bhattacharya
Member

27.06.2008
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