

Item No. 3

(Pune Bench)

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

(By Video Conferencing)

Appeal No. 14/2023 (WZ)  
I.A. No. 91/2023 I.A. No. 92/2023

M/s Shri Balaji Anodizing

.....Appellant

Versus

MPCB

....Respondent

Date of hearing: 10.04.2023

**CORAM: HON'BLE MR. JUSTICE DINESH KUMAR SINGH, JUDICIAL MEMBER  
HON'BLE DR. VIJAY KULKARNI, EXPERT MEMBER**

Appellant : Mr. Saurabh Kulkarni, Advocate

**ORDER**

1. This appeal has been preferred on 25.03.2023 against the order dated 18.01.2022 passed by the Respondent-MPCB directing the Appellant to deposit a sum of Rs. 1,54,90,000/- by way of environmental compensation within a period of 15 days.

2. The learned Counsel for the Applicant has filed delay condonation application, where-in it is stated that there is delay of just 20 days for filing the present appeal, which may be condoned. He has drawn our attention to the order of Hon'ble High Court of Bombay passed in *Writ Petition No. 1377 of 2023 (Babulal Chandulal Dave vs. The State of Maharashtra & Ors.)*, where-in the said Writ Petition has been disposed of as withdrawn because he wanted liberty to avail appropriate remedy before this Tribunal. During argument, the learned Counsel for the Appellant has candidly admitted that the said Writ Petition was preferred by him on 21.01.2023 i.e. much after the expiry of limitation, as Section

16 of the National Green Tribunal Act, 2010 provided for 30 days within which to file the appeal and 60 days further at the discretion of this Tribunal to condone the delay, subject to finding the ground to be sufficient. Now the plea which has been taken by the learned Counsel for the Appellant is that the limitation should run from the order dated 07.02.2023 when the Hon'ble High Court dismissed the Writ Petition but we are not in agreement with the said argument because had he moved the Hon'ble High Court within the period of limitation, we could have granted him the exemption for the period the proceedings remained pending before the Hon'ble High Court but in this case since the Hon'ble High Court itself was moved after considerable delay, therefore, we do not find any substance in the present appeal and find it to be time barred because the order which has been assailed, is dated 18.01.2022 and the 30 days' time would expire on 17.02.2022 and thereafter further 60 days would expire on 17.04.2022.

3. The learned Counsel for the Appellant has relied upon the Judgment of Hon'ble Apex Court in the case of *Sesh Nath Singh & Anr. vs. Baidyabati Sheor Aphuli Co-Operative Bank Ltd. and Anr.* [(2021) 7 SCC 313], where-in relevant para no. 55 Sub-Clause (2) is quoted here-in below:-

*“(ii)Whether Section 14 of the Limitation Act, 1963 applies to applications under Section 7 IBC? If so, is the exclusion of time under Section 14 is available, only after the proceedings before the wrong forum terminate?”*

4. The said ruling would not be applicable in the facts of the present case because in the said Judgment, which is being relied upon, wrong forum was moved within time and thereafter, for whatever length of time, the proceedings remained pending before the wrong forum, was excluded but in the present case, such is not the case because wrong forum i.e.

Hon'ble High Court itself was approached much after the limitation period has expired.

5. Therefore, the facts of the above case are distinguishable from the facts in the present appeal. We do not find any force in the present appeal, accordingly appeal stands dismissed as time barred along-with the delay condonation application.

Dinesh Kumar Singh, JM

Dr. Vijay Kulkarni, EM

April 10, 2023  
Appeal No. 14/2023 (WZ)  
I.A. No. 91/2023 I.A. No. 92/2023  
P.Kr