

Nalawade

**BEFORE MAHARASHTRA REAL ESTATE APPELLATE TRIBUNAL  
MUMBAI**

**MISC. APPLICATION NO. 177 OF 2023 (Delay)  
WITH  
MISC. APPLICATION NO. 393 OF 2022 (Restoration)  
IN  
APPEAL NO. U-07 OF 2019 [D.]**

Nrimal Ujawal Credit Co-operative Society Ltd. ... Applicant

-VS-

Pranali w/o. Ravindra Putterwar ... Non-applicant

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*Mr. Karan Gajra h/f. Mr. Abhijeet Desai, Advocate for Applicant.  
Mr. Ishwar S. Charlewar, Advocate for Non-applicant.*

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**CORAM : SHRI SHRIRAM. R. JAGTAP, MEMBER (J) &**

**DR. K. SHIVAJI, MEMBER (A)**

**DATE : 14<sup>th</sup> MARCH, 2024**

(THROUGH VIDEO CONFERENCE)

Learned counsel for parties joined the conference.

2] Learned counsel for Applicant submits that by Misc. Application No.393/2022, Applicant is seeking to restore the captioned appeal, which has been dismissed vide order dated 22<sup>nd</sup> December 2020 of this Tribunal for want of compliance of the Proviso to Section 43(5) of the Act of 2016.

3] Learned counsel further submits that Misc. Application No.177/2023 has also been filed for condonation of delay in filing of the



captioned restoration application and served to the other side, by submitting that delay in filing the restoration application on 20.04.2022 was on account of difficulties faced by the then prevailing Covid-19 pandemic. This delay has specifically been exempted from the computation of the delay in view of the order/judgment of the Hon'ble Supreme Court in *Suo Motu Writ Petition (Civil) No.3 of 2020*, and as extended from time to time and final order of the Hon'ble Supreme Court dated 10.01.2022 wherein, the period from 15<sup>th</sup> March 2020 till 28<sup>th</sup> February 2022 and further limitation period of 90 days from 01<sup>st</sup> March 2022 (i.e. until 29<sup>th</sup> May 2022) has been extended on account of Covid-19 pandemic. Accordingly, restoration application has been filed against order dated 22.12.2020 on 20.04.2022 and the application for condonation of delay (if any) has also been filed on 01.03.2023.

4] He further submits that by filing the restoration application on 20.04.2022, the restoration application is well within the permitted limitation period, if we take into the extension of the limitation period already extended by the Hon'ble Supreme Court (*supra*). However, as an abundant precaution, the delay condonation application has also been filed subsequently on 01.03.2023. Accordingly, learned counsel further urged that the delay, if any be condoned, the restoration application be allowed, and the appeal be restored to the file of the Tribunal.

5] Learned counsel for Non-applicant vehemently opposed by



submitting that, despite giving enough opportunity to the Applicant, applicant promoter has miserably failed to comply with the Proviso to Section 43(5) during the pendency of the appeal. However, in view of the submissions of the applicant/promoter today, appeal can be restored only if the 100 percent of the total penalty amount imposed in the impugned order dated 09<sup>th</sup> January 2019 of ₹ 6 Crores, be deposited in the Tribunal.

6] Learned counsel for Applicant upon instruction submits that the order of this Tribunal dated 13.02.2020 stipulates that pre-deposit of 30 percent of the penalty amount as per the impugned order be deposited in the office of the Tribunal for compliance of the Proviso. Upon instructions, he is willing and ready to deposit the same amount without any further delay on receipt of the order for this.

7] Upon perusal of the record, in view of the submissions made by the parties and in view of the peculiar facts and circumstances of the case, we are of the view that there is no impediment if we allow the applicant to comply with the earlier order towards the compliance of the Proviso to Section 43(5) to deposit 30 percent of the penalty amount of the impugned order as has already been passed by this Tribunal dated 13.02.2020 within two weeks, failing which appeal will automatically stand dismissed without any further reference.

8] Accordingly, Misc. Application Nos. 177/2023 and 393/2022 are allowed, subject to compliance of the Proviso to Section 43(5) of the





Act of 2016. In view of the order of the Hon'ble Supreme Court, the application for condonation of delay is allowed and said delay is condoned.

9] In view of the foregoing, Misc. Application No.393/2022 is also allowed, subject to deposit of ₹. 1.8 crore strictly as per the order of this Tribunal dated 13.02.2020 within two weeks from the date of uploading of this order and the copy of the compliance report be filed and be served to other side well before the next date.

10] No costs.

**IN APPEAL NO. U-07 OF 2019**

Learned counsel for the parties joined the conference.

2] Stand over to May 06, 2024 for compliance.

  
(DR. K. SHIVAJI)

  
(SHRIRAM. R. JAGTAP, J.)