


Presentation on Condonation of Delay

Presentation By:
Rohit Joshi
Judicial Magistrate 1st, Rudrapur.



Application for Condonation of Delay under Indian Limitation Act, 1963



Background of The Limitation Act, 1963

- In India, the legislation which governs and regulates the period within which a suit is supposed to be instituted known as The limitation act, 1963. This legislation enumerates relevant provisions regarding the delay in filing application, suit and appeal under competent jurisdiction and how the that delay can be condoned.

Objective and applicability of The Limitation Act, 1963

- The main objective that The Limitation Act, 1963 serves is to primarily provide a bar upon the time limit within which the aggrieved party can institute a suit, application or appeal in the court. If legislation upon limitation is not enacted, then it would lead to an unconditional and never-ending litigation procedure, as no party would be concerned to refer a timely litigation and the party will file suit for a cause of action that has been executed a long time back and which may have no relevance in the present time.

Meaning of Condonation of Delay

- The condonation of delay means the extension of prescribed time in certain cases subject to sufficient cause. The concept of condoning of delay is primarily preferred to the application and appeal and does not cover suits.

Condonation of Delay Under The Limitation Act, 1963

- Section 5 The Limitation Act, 1963
 - Extension of Prescribed period in certain cases.- Any appeal of any application, other than an application under any of the provisions of order XXI of Code of Civil Procedure, 1908 (5 of 1908), may be admitted after the prescribed period if the appellant of the applicant satisfies the court that he had sufficient cause for not preferring the appeal of making the application within such period.


Explanation-The fact that the appellant or the applicant was misled by any order, practice or judgment of the High Court in ascertaining or computing the prescribed period may be sufficient cause within the meaning of the section.

- The court should not be lenient enough which would permit the parties to tamper with the legal right so acquired. The condonation of delay is a remedy and not a right to the aggrieved party. Even if the party successfully provides a sufficient cause, the Courts have the discretionary power to deal with the application of condonation of delay.

Sufficient Cause

The word “sufficient cause” is an important phrase in this section. Since the section is not a matter of right for the party who pleads the condonation, but it depends on the discretion of the court. The court must be satisfied that the delay is caused due to a genuine reason. It is sufficiency of the cause which counts, and not length of delay.

The expression sufficient cause must be liberally construed by the court. In **G. Ramagowda v. Special Land Acquisition, AIR 1987 SC 897** it was held that the expression sufficient cause must receive a liberal construction so as to advance substantial justice and generally delays in preferring appeals are inaction or lack of bona fide is imputable to the party seeking condonation of delay.

- In **Shakuntala Devi Jain v. Kuntal Kumar, 1969 (SC) 575** section 5 gives the court a discretion with respect to jurisdiction is to be exercised in the way in which judicial power and discretion ought to be exercised upon principles which are well understood. The term sufficient cause receiving a liberal construction so as to advance substantial justice when no negligence nor inaction or want of bona fides is imputable to the appellant.
 - In **State (NCT of Delhi) v. Ahmed jaan, (2008) 14 SCC 582** the expression sufficient cause should be considered with pragmatism is a justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay.
- 

General Principles to be Followed

In **Collector Land Acquisition v. Mst. Katiji, AIR 1987 SC 1353** The Supreme Court also gave certain principle which binds the courts to follow while adjudication and interpreting the issue regarding condonation of delay. These are

- 1- Ordinarily, a litigant does not have the right to receive benefit from filing a late appeal.
- 2- If the delay is condoned, then the case must be decided after both parties have been provided with an opportunity of being heard before the court. But if condonation is refused, then there is a chance that a meritorious matter would be thrown out on the basis of technicalities.
- 3- It is not required to take a pedantic approach while dealing with an explanation of the delay. The doctrine has to be applied in a rational and pragmatic manner.
- 4- Between substantial justice and technical considerations, the substantial justice should be preferred before since the other side cannot contend to have a superior right in injustice being done under a bona fide mistake.

- The court should not presume that the delay is occasioned deliberately or on account of mala fide or the applicant is guilty of culpable negligence since no litigant takes recourse to delay the filing of his application.

Instances when the delay can be condoned:

- 1- Subsequent changes in the law
- 2- Illness of the party
- 3- Party being a pardanishin lady
- 4- Imprisonment of a party
- 5- The party belongs to a minority group who has insufficient funds
- 6- Poverty of paupers
- 7- Party is a government servant
- 8- The delay is caused due to pendency of writ petition
- 9- The party is illiterate

- In **Ram Lal v. Rewa Coalfields Ltd**, AIR 1962 SC 361 SC held that there are two important considerations which have to be borne in mind while considering the condonation of delay:
- 1- The expiration of the period of limitation gives rise to the legal rights in favor of the decree-holder to treat the decree passed in their favor as binding between the parties. The legal right which is accrued to the decree-holder by lapse of time should not be lightly disturbed.
- 2- If sufficient cause for the execution of delay is shown, then the discretion is given to the court to condone the delay and admit the appeal. Even if sufficient cause has been shown, the party is not entitled to the condonation of delay is question as a matter of right. Proof of sufficient cause is a condition precedent in the exercise of the discretionary jurisdiction.
- Therefore there is no exhaustive list of grounds on which the delay can be condoned. It has to be decided on the facts and circumstances of each case.

Conclusion

Condonation of delay is the remedy provided to the parties if they fail to approach the court during the limit that the law has provided to them. This remedy is exercised at the discretion of the court. There are instances where the court didn't allow condoning an application for a single day, whereas there are instances where the court condoned the application after years.

Hence, condonation of delay is remedy where a meritorious case be heard after providing a sufficient cause to the court when the prescribed period has ended.

THANK YOU