

Present:

Mr. Justice A.K.M. Asaduzzaman

Civil Rule No. 162 (con) of 2024

Orion Sports Limited

.....Petitioner.

-Versus-

Bangladesh Cricket Board (BCB)

.....Opposite party.

Mr. Md. Jubair, Advocate

.....For the petitioner.

Mr. Md. Saimum Islam, Advocate.

..... For the opposite party.

Heard and Judgment on 28th May, 2024.

This Rule was issued calling upon the opposite party to show cause as to why the delay of 430 days in filing the revisional application against the Order No. 37 dated 20.10.2022 passed by the Court of District Judge, Dhaka in Arbitration Miscellaneous Case No. 346 of 2016 should not be condoned.

In the application filed under section 5 of the limitation Act, for condoning the delay of 430 days, it has been contended that trial court passed the impugned order on 20.10.2022. The Managing Director of the petitioner has to remain abroad for considerable period of time for business purposes and thus necessary instruction could not be obtained for challenging the

said order dated 20.10.2022 before the Hon'ble High Court Division. Thereafter, the petitioner consulted with his lawyer in respect of such appointment of Arbitrator and as per the advice of the lawyer, the petitioner has decided to challenge the propriety of the impugned order dated 20.10.2022 by filing Civil Revision before the Hon'ble High Court Division. In the meantime, the period of 90 days has expired and as such delay occurred in filing the instant Revisional application. Moreover, the delay is absolutely bonafide and unintentional and as such this Hon'ble Court may be pleased to condone the delay of 430 days for ends of justice. There is no period fixed under the Limitation Act for filing Civil Revisional application but it is long standing practice of this Hon'ble Court to file Civil Revisional application within 90 days from the date of impugned order excluding the days for obtaining certified copy and as such 90 days expired on 430 days but due to delay in taking decision to challenge the said order 20.10.2022 and the internal procedure of the petitioner company, the above Civil Revisional application has been filed after 430 days of the impugned order. Since this Hon'ble Court in Civil Revisional Jurisdiction exercises discretionary jurisdiction, this Hon'ble Court may be pleased to condone the said delay of 430 days as the delay was not due to laches of the petitioner. Further given consideration to gross error of law crept into the impugned order,

especially when this Hon'ble court may exercise the revisional jurisdiction Suo Motu, this Hon'ble Court may be pleased to condone the delay of 430 days in filing the above Civil Revisional Application. If the delay is not condoned the petitioner will suffer irreparable loss and injury.

The learned Advocate, Md. Saimum Islam on the other hand appearing for the opposite party opposes the rule and submits that petitioner has filed the present revisional application after an inordinate delay of 430 days only to frustrate the arbitration proceedings that has been commenced by the opposite party and therefore the same is tantamount to abuse of process of the Court and as such the Rule for condonation of delay is liable to be discharged.

Heard the learned advocate and perused the application and the explanation given for condonation of delay.

Considering the fact and circumstances of the case together with the statement made in the application and grounds taken for condonation of delay, I found substances in the rule.

In the result, the Rule is made absolute.

The delay of 430 days in filing this revisional application is hereby condoned.

Office is directed to take a note to the effect and the matter will come up in the list on 29.05.2024 for In:Re: motion hearing.

(A.K.M. Asaduzzaman,J.)