

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Miscellaneous Appeal No.576 of 2023**

The State of Bihar through Commissioner, Commercial Taxes

... .. Appellant/s

Versus

M/s Havels India Ltd.

... .. Respondent/s

with

**Miscellaneous Appeal No. 575 of 2023**

The State of Bihar through Commissioner, Commercial Taxes

... .. Appellant/s

Versus

M/s Havels India Ltd.

... .. Respondent/s

with

**Miscellaneous Appeal No. 577 of 2023**

The State of Bihar through Commissioner, Commercial Taxes

... .. Appellant/s

Versus

M/s Havels India Ltd.

... .. Respondent/s

with

**Miscellaneous Appeal No. 578 of 2023**

The State of Bihar Through Commissioner, Commercial Taxes

... .. Appellant/s

Versus

M/S Havels India Ltd.

... .. Respondent/s

**Appearance :**

(In Miscellaneous Appeal No. 576 of 2023)

For the Appellant/s : Mr.Rewti Kant Raman(Ac To Sc 11)

For the Respondent/s : Mr.Sadashiv Tiwari

(In Miscellaneous Appeal No. 575 of 2023)

For the Appellant/s : Mr.Rewti Kant Raman(Ac To Sc 11)

For the Respondent/s : Mr.Sadashiv Tiwari

(In Miscellaneous Appeal No. 577 of 2023)

For the Appellant/s : Mr.Rewti Kant Raman(Ac To Sc 11)

For the Respondent/s : Mr.Sadashiv Tiwari

(In Miscellaneous Appeal No. 578 of 2023)

For the Appellant/s : Mr.Rewti Kant Raman(Ac To Sc11)

For the Respondent/s : Mr.Sadashiv Tiwari



**CORAM: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI  
and  
HONOURABLE MR. JUSTICE DR. ANSHUMAN  
ORAL ORDER**

**(Per: HONOURABLE MR. JUSTICE BIBEK CHAUDHURI)**

14 16-01-2026

In connection with all the appeals, applications for condonation of delay of 128 days, 129 days, 129 days and 129 days in Miscellaneous Appeal No.576 of 2023, Miscellaneous Appeal No. 575 of 2023, Miscellaneous Appeal No. 577 of 2023 and Miscellaneous Appeal No. 578 of 2023, respectively, filed by the appellants / petitioners are fixed for hearing today.

2. We have heard the learned Advocate for the appellants physically and the learned Senior counsel for the respondents on virtual mode.

3. It is stated in all the petitions filed by the appellants, the impugned judgement was passed on 18<sup>th</sup> of January, 2023 by the Learned Commercial Taxes Tribunal, Bihar, Patna allowing the appeal against the appellate order dated 17<sup>th</sup> of January, 2009. The judgement dated 18<sup>th</sup> of January, 2023 passed in appeal was received by the department on 31<sup>st</sup> of January, 2023. The judgement was sent to the department of its opinion as to whether the department was willing to file an appeal or not. The Commissioner of State Tax, Patna, Special Circle informed vide order dated 6<sup>th</sup> of March,



2023 that the said judgement was sent to the higher authorities for a decision as to whether appeal would be filed or not. The higher authorities in the legal branch of the department vide its letter no. 1095 dated 23<sup>rd</sup> of March, 2023 sought for para-wise statement of facts for filing an appeal against the impugned judgement. Finally on 23<sup>rd</sup> of June, 2023, the legal branch of the department informed its decision to file an appeal as per the advice of the learned Advocate General, Bihar. On getting the approval of the learned Advocate General and the department, the appeal was filed on 24<sup>th</sup> of August, 2023 and eventually there was a delay of 128/129 days.

4. In M.A 575 of 2023, M.A. 577 of 2023 and M.A. 578 of 2023, similar ground was subscribed for condonation of delay by 129 days.

5. The learned Advocate for the appellants submits that in *Sheo Raj Singh (deceased) & Ors. v. Union of India & Anr.* reported in *(2023) 10 SCC 531*, it was held by the Hon'ble Supreme Court that the contours of the area of discretion of the courts in the matter of condonation of delays in filing appeals have been set out in a number of pronouncements of Hon'ble Supreme Court. Of course there is no general principle saving the party from all mistakes of its the counsel. Though there is no



reason why the opposite party should be exposed to a time-barred appeal if there was negligence, deliberate or gross inaction or lack of bona fides on the part of the party or its counsel, it is further observed that each case will have to be considered on the particularities of its own special facts. The Hon'ble Supreme Court reiterated that the expression "sufficient cause" of Section 5 must receive a liberal construction so as to advance substantial justice and generally delays in preferring appeals are required to be condoned in the interest of justice where no gross negligence or deliberate inaction or lack of bona fides is imputable to the party, seeking condonation of the delay.

6. The Hon'ble Supreme Court in *State of Haryana v. Chandra Mani* reported in (1996) 3 SCC 132, held as hereunder:-

*"11. .... When the State is an applicant, praying for condonation of delay, it is common knowledge that on account of impersonal machinery and the inherited bureaucratic methodology imbued with the note-making, file-pushing, and passing-on-the-buck ethos, delay on the part of the State is less difficult to understand though more difficult to approve, but the State represents collective cause of the community. It is axiomatic that decisions are taken by officers/agencies proverbially at slow pace and*



*encumbered process of pushing the files from table to table and keeping it on table for considerable time causing delay — intentional or otherwise — is a routine. Considerable delay of procedural red-tape in the process of their making decision is a common feature. Therefore, certain amount of latitude is not impermissible. If the appeals brought by the State are lost for such default no person is individually affected but what in the ultimate analysis suffers, is public interest. The expression “sufficient cause” should, therefore, be considered with pragmatism in justice-oriented approach rather than the technical detection of sufficient cause for explaining every day's delay. The factors which are peculiar to and characteristic of the functioning of the governmental conditions would be cognizant to and requires adoption of pragmatic approach in justice-oriented process.”*

7. Finally in ***Sheo Raj Singh*** (supra), the Hon'ble Supreme Court has called out the following guidelines:-

*“35. We find that the High Court in the present case assigned the following reasons in support of its order:*

*35.1. The law of limitation was founded on public policy, and that some lapse on the part of a litigant, by itself, would not be sufficient to deny condonation of delay as the same could cause miscarriage of justice.*



*35.2. The expression “sufficient cause” is elastic enough for courts to do substantial justice. Further, when substantial justice and technical considerations are pitted against one another, the former would prevail.*

*35.3. It is upon the courts to consider the sufficiency of cause shown for the delay, and the length of delay is not always decisive while exercising discretion in such matters if the delay is properly explained. Further, the merits of a claim were also to be considered when deciding such applications for condonation of delay.*

*35.4. Further, a distinction should be drawn between inordinate unexplained delay and explained delay, where in the present case, the first respondent had sufficiently explained the delay on account of negligence on part of the government functionaries and the government counsel on record before the Reference Court.*

*35.5. The officer responsible for the negligence would be liable to suffer and not public interest through the State. The High Court felt inclined to take a pragmatic view since the negligence therein did not border on callousness.”*

8. In the instant matters, filing of the appeals were delayed due to the reason that the department required to take decision of the higher authorities in the legal branch and the



legal branch in-turn, was dependent upon the opinion of the learned Advocate General, Bihar,. In order to movement of file in Government department on the question as to whether appeal shall be filed or not and also to get the opinion of the learned Advocate General, there was delay in filing the appeals.

9. Such delay was not intentionally and relying on the ration laid in *Sheo Raj Singh* (supra) in paragraph 35, the application are required to be allowed.

10. Accordingly, we are allow the application under Section 5 of the Limitation Act.

11. Delay is condoned.

12. Appeal be registered to its file.

13. Since the respondent has already entered appearance, requirement of service of notice to the respondent is waived.

14. The appeals be listed under the heading "For Admission" on 16<sup>th</sup> of February, 2026.

**(Bibek Chaudhuri, J)**

**( Dr. Anshuman, J)**

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