

16.04.2024
SL No.213
Court No. 551
Ali

**IN THE HIGH COURT AT CALUTTA
Civil Appellate Jurisdiction**

**F.M.A.T. 1201 of 2017
With
IA No.:CAN/1/2017 (Old No.:CAN/10630/2017)
CAN/2/2017 (Old No.:CAN/10631/2017)**

**Union of India
Versus
Phoenix Overseas Ltd.**

Mr. :Pramod Kumar Drolia,
Mr. Santosh Kr. Pandey
...for the appellant/Union of India.

Affidavit of service filed on behalf of the
appellant/Union of India is taken on record.

The instant appeal has been preferred
against the judgment and award dated 12th day of
July, 2016, passed by the learned Railway Claims
Tribunal, Kolkata Bench in Claim Application No.
O.A.(III)Kol/0008/2013.

The Union of India, through General
Manager, Eastern Railway has preferred the instant
appeal.

The report of the Stamp Reporter suggests
that there are 30 days delays in preferring the
instant appeal.

In Ref.: CAN/1/2017 (Old No.:CAN/10630/2017)

This is an application for condonation of
delay.

Learned advocate for the appellant submits
that after passing the impugned award one review

application was preferred by the appellant. The said review application was not entertained by the learned tribunal. As, the appellant was engaged in Review application, thus, the instant appeal is preferred in delay.

He further submits that there are no intentional laches on behalf of the appellant to prefer the instant appeal. So, he prays for condonation of delay.

Heard the learned advocate for the appellant perused the body of application being CAN 1 of 2017 (Old No.:CAN/10630/2017). Considering the submissions and perusing the grounds mentioned in the body of the application itself, it appears to me that the grounds are sufficient.

Accordingly, the delay in preferring the appeal is hereby condoned.

The appeal is formally admitted.

Register the same.

Accordingly, the application being **CAN 1 of 2017 (Old No.:CAN/10630/2017)** is disposed of.

Department is directed to call for the LCR from the office of the learned tribunal.

On reaching the LCR the department is to verify the same, on such verification if it is found to be complete and in order, a notice of such LCR shall serve upon the advocate on record for the appellant within 15 days. After receiving such notices the

learned advocate for the appellants shall prepare requisite number of paper books, containing pleadings and proofs both oral and documentary of LCR out of Court.

The appellant is directed to submit those paper books with the department within four weeks.

The appellant is directed to serve notices of appeal upon all the respondents by putting up Talabana cost with the filled up notices form to the concerned department within a fortnight. After such deposit the department shall ensure causing service of notices of appeal upon the respondent.

In Re.: CAN 2 of 2017 (Old No.:CAN/10631/2017)

This is an application for stay of operation of the impugned award dated 12th July, 2016, passed by the learned Railway Claims Tribunal.

The learned advocate for the appellant/Union of India required some necessary information before proceed with the instant CAN application.

Accordingly, an accommodation is sought for on behalf of appellant/Union of India.

Let the matter adjourn today.

List the matter under the same heading on 14th May, 2024.

(Subhendu Samanta, J.)

