

**BEFORE THE MEMBER (SHRI V.K. KADAM), MAHARASHTRA
REVENUE TRIBUNAL, AURANGABAD**

Case No.10/D/2019/H

Badrinarayan Hanumandas Zawar Applicant
Age-71 yrs, Occu-Agri,
R/o. Narayannagar, Hingoli
Tq. & Dist. Hingoli

V/s

1. Pandurang S/o. Govind Respondents
Age- 67 yrs, Occu-Agril,
2. Govind S/o. Sakharam
Age- 37 yrs, Ocu-Agri,
Both R/o. Sawad
Tq. & Dist. Hingoli

ORDER ON DELAY CONDONATION APPLICATION –

1. The applicant have preferred Revision No. 29/B/2011/H in this Hon'ble Tribunal challenging the order dated 11/07/2008 passed by the Ld. Tahsildar Hingoli thereby rejected the application filed by the applicant the said revision is pending before this Hon'ble Tribunal. The applicant submits that the said revision petition was on board dated 06/10/2017 for adjudication before this Hon'ble Tribunal. On that day the advocate of the applicant as well as the advocate of the

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respondents was remain absent. Therefore, this Hon'ble Tribunal on 06/10/2017 was please to dismiss the revision in default.

2. The applicant submits that the advocate of the applicant is 72 years old and due to old age he suffering from illness and therefore he could not attend the revision petition on 06/10/2017 and on earlier occasion before this Hon'ble Tribunal. However this Hon'ble Tribunal dismissed the revision petition in default. The advocate of the applicant on 21/11/2017 came to know about the dismissal order dated 06/10/2017 passed by this Hon'ble Tribunal. The advocate of the applicant immediate applied for certified copy of the said order and same is received on 23/11/2017. Thereafter the advocate of the applicant filed Misc. Application for restoration. Therefore the advocate of the applicant preferred this Misc. Application thereby preferring to condone the delay caused for filing Misc. Application for restoration. The delay caused for filing restoration application is not intentional and deliberate one and same may please be condone in the interest of justice. The applicant further submit that litigant would not be suffered due to fault committed by his advocate, lastly prayed to allow the application.

3. The respondent appeared and resisted the application, this application contending that the delay caused in filing this application is intentional and deliberate so the applicant is liable to be dismissed.

4. Heard the Ld. advocate U.R. Chavan for petitioner and Shri B.G. Deshmukh advocate for respondent in considerable length. On the

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submissions advanced by both the parties the following points arise for my determination and my findings thereon are given against each points for the reasons below.

Sr.No.	Points	Findings
1.	Whether there is sufficient cause for condonation of delay caused in preferring restoration petition?	Yes
2.	Whether the petition is entitled for condonation of delay?	Yes
3.	What order?	As per final order

Reasons -

As to point no.1 & 2- The points no. 1 & 2 are being interlinked therefore it can be dealt by giving common reasons.

5. According to the petitioner he has preferred the revision against the order dated 11/07/2008 passed by Tahsildar Hingoli it is submitted that on 06/10/2007 the revision petition was on board for adjudication before this Hon'ble Tribunal and the advocate of the applicant as well as advocate for the respondent both were remain absent. Subsequently this Tribunal has passed the order dated 06/10/2017 and was pleased to dismiss the revision in default. It is submitted that the advocate of the applicant is 72 years old and due to old age he is suffering from illness and therefore he could not attend the revision petition on 06/10/2017 when the matter was called for hearing the

Verdict
29-12-2012

advocate of the applicant on 21/11/2017 came to know about the order dated 06/10/2017 and immediately he has applied for certified copy of the said order which is received on 23/11/2017 the delay caused in preferring the restoration petition is not intentional and deliberate one, so the delay caused in preferring restoration petition please be condoned in the interest of justice, the litigant would not be suffered due to fault committed by his advocate.

6. On the contrary Shri B.G. Deshmukh advocate for the respondent submits that the delay caused in preferring restoration petition is intentional and deliberate. On the earlier date also the petitioner and his advocate were absent. The petitioner is not entitled for the reliefs claimed.

7. On going through the rival submissions it appears that the litigant would not be suffered due to fault committed by his advocate, the delay caused in preferring application for restoration is not intentional and deliberate one, so the applicant is entitled for condonation of delay however the cost will be saddled I therefore answer point no.1 & 2 in the affirmative.

As to Point No.3 - In the result, I passed following order.

ORDER

1. The application is here by allowed.
2. The delay caused in preferring restoration petition is here by condoned subject to cost of Rs.2000/-.

Accepted
29-12-2017

3. After depositing the cost amount restoration petition be registered.

Place : Aurangabad
Dated : 29/12/2022

V.K. Kadam
29-12-2022
(V.K. Kadam)

Member,
Maharashtra Revenue Tribunal,
Mumbai.

