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MCC-3399-2024

IN THE HIGH COURT OF MADHYA PRADESH  
AT GWALIOR

BEFORE

HON'BLE SHRI JUSTICE ANAND PATHAK

&amp;

HON'BLE SHRI JUSTICE RAJENDRA KUMAR VANI

ON THE 30<sup>th</sup> OF SEPTEMBER, 2024MISC. CIVIL CASE No. 3399 of 2024*PRINCIPAL COMMISSIONER OF INCOME TAX GWALIOR**Versus**M/S KHAJURAHU BUILDERS AND CONSTRUCTION PVT LTD CIN  
U45201MP200IPTC014499 PAN AACCK22071*

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Appearance:

*Shri Harshvardhan Topre - Advocate for the applicant.*  
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ORDER

*Per. Justice Anand Pathak*

Heard on I.A. No.7192/2024, an application under Section 5 of Limitation Act for condonation of delay.

For the reasons mentioned in the application, same is hereby allowed.

1. The instant MCC has been preferred by the applicant seeking restoration of ITA No.89/2024 which got dismissed vide order dated 23.08.2024 by the Principal Registrar for non-compliance of the preemptory order dated 01.07.2024.

2. Learned counsel for the petitioner submits that due to mistake on part of counsel for the petitioner, default was not cured and application for condonation of delay was not filed, which resulted in dismissal of ITA. He further submits that the said mistake was bonafide, therefore, this ITA, which is duly supported by an affidavit deserves to be allowed.



3. The reasons assigned by learned counsel for the applicant appear to be genuine and bonafide. Looking to the nature of cause and bonafide intents as well as settled law that for the fault of the counsel, the litigant should not be made to suffer (see: AIR 2001 SC 2497, M.K. Prasad Vs. P. Arumugam, 2007 (5) MPHT 470, Dindayal Bansal Vs. Gwalior Nagar Tatha Gram Vikas Pradhikaran), the present application deserves to be and is hereby allowed.

4. A suggestion has been given to counsel for the applicant to invest one hour of community service while visiting Mercy Home namely Madhav Andha Ashram, (Gwalior) with some food items/snacks of Rs.1000/- and spend one hour with the children/ inmates/ families, who are of humble background and are being taken care of by the NGO/Society sponsored by State Government. This community service of one hour would not only be satisfying to the soul but would also give a message to the differently abled children that society and its members care for them and that they are not considered as the children of the Lesser God.

5. The said suggestion is not punitive in nature and compliance of it is at the discretion of counsel for the applicant.

6. Graceful enough in their disposition, suggestion is readily accepted by counsel for the applicant and they undertake that applicant and counsel not only would visit the Mercy Home but also would carry some food items of Rs.1000/- with them and spend one hour time with them to understand them and to satisfy themselves while doing such a pious work.

7. Appreciating the gesture shown by counsel for the applicant with



the earnest hope and belief that applicant and counsel would visit the aforesaid place within 15 days from today and spend one hour time with the children/ inmates/ families of the mercy home and bring smile on their face satisfy their soul. It is expected that any Government Advocate or other advocate may also accompany the counsel for this purpose.

8. This is a test case to give concept of '**Social Audit**' a chance to gain grounds. Responsible and Resourceful persons of the Society who are occupying important positions in the Department of Administration/ Education/ Health/ Legal and other related fields including Professionals like Chartered Accountants/ Doctors/ Lawyers etc., to take some responsibility to visit the places (like orphanage/ old age home/ mercy home/ one stop center etc.) where persons with disability/ orphans/ old age people/ victims of the crime and other destitutes are institutionalized so that they can come to know about the plight of these inmates and would be able to contribute while raising their standards of living and to create sense of well being amongst them. Inmates who are living in such institutions would also feel that they are not left out by the society and the society is still eager to take them into its fold. This way, they would come in the main stream also.

9. Another important effect of the **Social Audit** is that Management of those Institutions sometime misbehave or cause mischief to the inmates especially children and females living there and this way, they would always be cautious that the society is keeping eyes over their working. Therefore, evolution of concept of **Social Audit** and its effective implementation is the need of hour. Policy makers especially Department of Women and Child



Welfare Development (DWCD), Deptt. of Social Justice and Police Department must come out with some tangible solution in this regard.

10. Therefore, keeping the said spirit, counsel for the applicant is directed to submit a report regarding their visit to the Mercy Home within fifteen days elaborating their experience and status of mercy home with suggestions, if any, in the litigation ( ITA No.89/2024 ), which is going to be restored by this order.

11. On submission of the report and affidavit as accepted by counsel for the applicant, ITA No.89/2024 shall be restored to its original number.

12. Accordingly, instant petition for restoration is allowed subject to compliance of the direction as referred above and ITA No.89/2024 is restored to its original number.

13. Copy of this order be kept in the file of ITA No.89/2024 for record/compliance purpose.

14. Copy of this order be also sent to the Chief Secretary/ Principal Secretary, Women and Child Development Department, Department of Social Justice and Secretary Juvenile Justice Committee M.P. High Court for information and contemplation.

15. With the aforesaid, the application stands disposed of.

(ANAND PATHAK)  
JUDGE

(RAJENDRA KUMAR VANI)  
JUDGE

Monika