

IN THE DEBTS RECOVERY APPELLATE TRIBUNAL AT KOLKATA

**Appl. Dy No. 160 of 2023**

**THE HON'BLE JUSTICE SHRI ANIL KUMAR SRIVASTAVA,  
CHAIRPERSON**

**09.06.2023**

Trust Bank Ltd. having its registered office at Peoples Insurance Bhavan, 2<sup>nd</sup>, 16<sup>th</sup> & 17<sup>th</sup> floor, 36. Dilkhusha C/A, Dhaka – 1000 and at NSC Tower, 62/3, Purana Paltan, Dhaka.

... Appellant

Vs.

1. Indian Bank having its office at No. 2, N.S.Road, Kolkata – 700001 and Branch office at SSI, Finance Branch, 3, Red Cross Place, Kolkata – 700001.
2. Mr. Purnendu Das, Proprietor of M/s KPS Enterprises, residing at Banipur, PGBT Road, PO Banipur, Habra, 24 Parganas North, PIN 743233.
3. Sabita Das residing at Banipur, PGBT Road, PO Banipur, Habra, 24 Parganas North, PIN 743233.
4. Prosenjit Das residing at Banipur, PGBT Road, PO Banipur, Habra, 24 Parganas North, PIN 743233.
5. National Bank Ltd. having head office at 116/1, Kazi Nazrul Islam Avenue, Banglamotor, Dhaka – 1000, Bangladesh Commercial Area, Dhaka Bangladesh.
6. Bangladesh Krishi Bank, having its office at Krishi Bank Bhavan, 83-85, Motijheel Commercial Area, Dhaka – 1000, Bangladesh and Branch office at 83-85, Motijheel Commercial Area, Dhaka – 1000 and Branch office at 15, Dilkhusha C/A Dhaka – 1000.
7. A.B. Bank Ltd., Overseas Mumbai Branch at Liberty Building, 41-42, Sir Vithaldas Thackersey Marg, New Merine Lines, Mumbai – 400020, India and its head Office at The Skymark, 18, Gulshan Avenue, Gulshan – 1, Dhaka – 1212, Bangladesh.
8. Pubali Bank, having its head office at 26, Dilkhusha Commercial Area, Dhaka – 1000 Bangladesh.
9. Social Islami Bank Ltd. having its office at City Center, Level – 19-22, 90/1,

Motijheel Commercial Area, Dhaka – 1000, Bangladesh.

10. Uttara Bank Ltd. having its office at Uttara Bank Bhavan, Shahid Bir Uttam Asfaqus Samad Park, 90, Motijheel Commercial Area, PO Box No. 217 and 818, Dhaka – 1000, Bangladesh and branch office at 2/A, Sir Iqbal Road, Khulna – 9.

..... Respondents

For Appellant : Mr. Mridul Kanti Mondal, Id. Counsel.  
Mr. Safidul Mondal, Id. Counsel.  
For Respondent : Mr. Debasish Chakraborty, Id. Counsel.  
Ms. Sharmistha Pal, Id. Counsel.

## **THE APPELLATE TRIBUNAL :**

### **O R D E R**

I.A. 102 of 2023 is filed by the appellant Trust Bank Ltd of Bangladesh u/s 5 of the Limitation Act for condonation of 770 days' delay. Impugned order was passed on 24.07.2020 while the appeal was filed on 03.03.2023.

2. Learned counsel for the appellant submits that delay in filing the appeal was not intentional. He placed reliance upon Para 3 to 7 of the application for condonation of delay wherein it is stated that on receiving information about the impugned order on 08.12.2020 legal opinion of the learned advocate was sought 01.09.2021. Accordingly, after Board Resolution on 21.01.2021 communication was sent to the learned advocate to prefer the appeal and thereafter memo of appeal was prepared and filed.

3. Learned counsel for the respondent vehemently opposes the prayer. He submits that grounds as explained in the application are not sufficient to extend the period of limitation.

4. As far as delay is concerned it is about 922 days. Although Hon'ble Apex Court in Suo Motu Writ Petition No. 03 of 2020 dated 10.01.2022 has granted exemption for a period of 90 days from 01.03.2022. Even if that period is excluded, then it is to be seen as to whether there is sufficient ground for condonation of delay. In an application u/s 5 of the Limitation Act, it is required for the appellant to show sufficient cause for the delay. Delay cannot be condoned in a routine manner.

5. Having gone through the submissions made in the application for condonation of delay, it is revealed that legal opinion was received on 25.08.2021 and 02.09.2021. As per annexure at Page 12 of the application for condonation of delay, Board Resolution was passed on 21.01.2021 for filing of appeal and Mr. Shafijkul Mondal, Advocate, was authorized to file the appeal. If legal opinion was received on 28.08.2021 and 02.09.2021 how the Board Meeting was held on 21.01.2021 authorizing learned advocate to prefer the appeal. No explanation is given in the application filed u/s 5 of the Limitation Act for such an inordinate delay in communicating learned counsel for filing appeal. Even after receiving legal opinion on 02.09.2021 much time was consumed in preferring the appeal. Law is well settled that each and every day's delay is to be explained by the appellant for condoning delay in preferring the appeal in an application filed u/s 5 of the Limitation Act. In this matter delay could not be explained by the appellant as referred to above. It

shows that appellant was very negligent on its part to exercise its right. I do not find sufficient ground to condone the delay. Accordingly, application filed u/s 5 of the Limitation Act is liable to be dismissed.

6. I.A. 102 of 2023 is dismissed. Consequently, Appeal Dy. No. 160 of 2023 is also dismissed as time barred. No order as to costs.

Both the file be consigned to record room.

Copy of the order be supplied to the appellant and the respondents and a copy be also forwarded to the concerned DRT.

Copy of the judgement/Final Order be uploaded in the Tribunal's website.

Order dictated, signed and pronounced by me on this the 9<sup>th</sup> day of June, 2023.

(Anil Kumar Srivastava, J)  
Chairperson

Dated : 09.06.2023  
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