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Before the Appropriate Authority under the Minimum wages Act, Circle 1
Gurgaon, Haryana

In the matter of:

Bibha Devi

Versus

M/s Modelama Exports

Application for Condonation of Delay in respect of the Incidents of Claims
beyond Limitation period in the petition.

It is respectfully submitted that:

1. The Petitioner/Worker in the above mentioned case is a person with minimum education and academic qualifications.
2. The worker raised these issues before the management once, but as she wanted to continue with her job she did not raise the point again, for fear of being terminated. The worker being from an economically weaker and under privileged section of the society, she being employed was important for the economic well- being of her family and necessary for survival in a metropolitan city (ies) like Delhi-NCR.
3. There was an upward revision of salary after the notification but the worker was unaware about her entitlements- unaware that legally stipulated wages were not being paid to her and that the increment given fell short of the legal stipulation as per the revised

Minimum Wages Notification. So it is clear that the worker was kept under the illusion by the company that proper wages were being paid to her.

4. There is a general practice across the company and for all workers to pay wages below the stipulated minimum wage as mandated by the Minimum Wages Notification of the Haryana Government so the workers do not know and are kept uninformed about the actual wages that are due to them. This practice is rampant across the industry too as is also made conspicuous by the wage slips of numerous workers.
5. The Supreme Court, while discussing the case of Perumon Bhagvathy Devaswom v. Bhargavi Amma (2008) 8 SCC 321 in its para 9 held as under: *The words "sufficient cause for not making the application within the period of limitation" should be understood and applied in a reasonable, pragmatic, practical and liberal manner, depending upon the facts and circumstances of the case, and the type of case. The words 'sufficient cause' in Section 5 of Limitation Act should receive a liberal construction so as to advance substantial justice, when the delay is not on account of any dilatory tactics, want of bona fides, deliberate inaction or negligence on the part of the appellant."*

6. Secondly, in the case of Ram Sumiran (supra), the Court has not recorded any reasons or enunciated any principle of law for exercising the discretion. *The Court, being satisfied with the facts averred in the application and particularly giving benefit to the applicant on account of illiteracy and ignorance, condoned the delay of six years in filing the application. This judgment cannot be treated as a precedent in the eyes of the law. In fact, it was a judgment on its own facts.*
7. *The expression 'sufficient cause' implies the presence of legal and adequate reasons. The word 'sufficient' means adequate enough, as much as may be necessary to answer the purpose intended. It embraces no more than that which provides a plentitude which, when done, suffices to accomplish the purpose intended in the light of existing circumstances and when viewed from the Reasonable standard of practical and cautious men. The sufficient cause should be such as it would persuade the Court, in exercise of its judicial discretion, to treat the delay as an excusable one. These provisions give the Courts enough power and discretion to apply a law in a meaningful manner, while assuring that the purpose of enacting such a law does not stand frustrated. We find it unnecessary to discuss the instances which would fall under either of these classes of cases. The party should show that besides acting bona fide, it had taken all*

possible steps within its power and control and had approached the Court without any unnecessary delay. The test is whether or not a cause is sufficient to see whether it could have been avoided by the party by the exercise of due care and attention. [Advanced Law Lexicon, P. Ramanathan Aiyar, 3rd Edition, 2005]

8. The Apex court in its various decisions has enunciated that it is not the period of delay but the cause of delay and the reasonableness which should be considered before condoning the same. If the cause is sufficient the delay should be condoned.
9. It is also to be kept in mind that the Apex court in various cases has condoned delays going up to several years whereas in this case the delay is not so large so the application passes the test of reasonableness.

Therefore It is prayed that

- A. Keeping in mind the level of education of the Worker, the fear created by necessities (by losing her employment), and the unabated illegal practice of not paying the stipulated Minimum Wage by the Company (ies) and keeping workers under illusion it is only justified and reasonable to condone the Delay in filing the application as to all the incidents of Claims, and give an opportunity to the Worker to be heard in respect of all such incidents.

B. The principle of Natural justice dictates that no cause should be dismissed unheard and that while doing justice the balance of convenience of the parties should be kept in mind. It will only be right to give an opportunity to the Worker to be heard otherwise the practices of the Company of stealing the wages of Workers would go on unabated and the workers will be the only victims while the Companies will continue making profit from such practices at the cost of workers.

Place: Gurgaon

Date: 19.10.2016

Worker/Applicant

Kumar Ravishankar
Shreya Sarkar

Kumar Ravishankar/Shreya Sarkar
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