

**IN THE HIGH COURT OF MADHYA PRADESH**  
**AT INDORE**

**BEFORE**

**DB: HON'BLE SHRI JUSTICE SUSHRUT ARVIND DHARMADHIKARI,**  
**&**  
**HON'BLE SHRI JUSTICE DUPPALA VENKATA RAMANA**

**ON THE 18th OF JULY, 2024**

**WRIT PETITION No.21953/2019**

**M/S.TIKKI TAR INDUSTRIES**

**Versus**

**STATE OF MADHYA PRADESH & ANR.**

**&**

**WRIT PETITION No.22040/2019**

**M/S.TIKKI TAR INDUSTRIES**

**Versus**

**STATE OF MADHYA PRADESH & ANR.**

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**Appearance:**

***(SHRI P.M. CHOUDAHRY, LEARNED SENIOR COUNSEL WITH  
SHRI ANAND PRABHAWALKAR, LEARNED COUNSEL FOR THE  
PETITIONER)***

***(MS. ARCHANA KHER, LEARNED ADDITIONAL ADVOCATE  
GENERAL FOR THE RESPONDENT/STATE).***

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Heard on the question of admission.

Both these petitions W.P. No.21953/2019 and W.P. No.22040/2019 are being heard analogously as same issue is involved in both the matters and the same are being decided by this common order.

2. In these petitions under Article 226 of the Constitution of India,

the petitioner has assailed the order dated 24.06.2019, passed by the respondent No.1 dismissing the appeal filed by the petitioner/appellant by refusing to condone the delay caused in filing the second appeal.

3. Learned counsel for the petitioner contended that the order impugned is patently arbitrary as the same is based on non-existent facts regarding advancing arguments which were never advanced. In fact, the order was passed in absence of petitioner as well as his counsel. The appeal has been dismissed on the ground of delay of about 6 years.

4. Per Contra, Ms. Archana Kher, learned Additional Advocate General appearing on behalf of the respondent/State submitted that the Appellate authority has rightly rejected the appeal on the ground of delay of 6 years after hearing the learned counsel for the petitioner. As such, no interference is called for and the petition is liable to be dismissed.

5. Heard the learned counsel for both the parties and perused the record.

6. On perusal of the order impugned dated 24.06.2019, merely, records that no one appeared on behalf of the petitioner/appellant and in the body of the order, it is recorded that after hearing the learned counsel for the petitioner/appellant the impugned order has been passed, which runs contrary to each other. Admittedly, neither anyone had appeared for the petitioner on 24.06.2019 nor anyone advanced arguments on behalf of the petitioner/appellant on the question of delay. In view of the aforesaid, the order cannot be allowed to stand. The appellate authority without coming to the conclusion that sufficient cause is not available to condone the delay, could not have passed the impugned order and, therefore, the exparte dismissal order deserves to be set aside on this

ground.

7. In view of the aforesaid, the matter is remitted back to the appellate authority i.e respondent No.1 to re-hear the appeal on the question of limitation after affording opportunity of hearing to both the parties and, thereafter, pass a reasoned and speaking order in accordance with law.

8. With the aforesaid direction, both the writ petitions stands disposed of.

A copy of this order be kept in the file/record of W.P. No.22040/2019.

**(S.A. DHARMADHIKARI)**  
**JUDGE**

**(DUPPALA VENKATA RAMANA)**  
**JUDGE**