

REPUBLIC OF KENYA

IN THE COURT OF APPEAL

AT NAIROBI

(Coram: Gicheru, J.A. (IN CHAMBERS))

CIVIL APPLICATION NO. NAI. 320 OF 1997

BETWEEN

1. SALTEC INTERNATIONAL LIMITED

2. SALT MANUFACTURERS (K) LIMITED.....APPLICANTS

AND

1. INDUSTRIAL DEVELOPMENT BANK LIMITED

2. INDUSTRIAL & COMMERCIAL DEVELOPMENT CORPORATION

3. MINORITY SHAREHOLDERS.....RESPONDENTS

**(Application for extension of time to file an appeal in
an intended appeal from a Ruling and order of the High Court
of Kenya at Nairobi (Ole Keiua, J.) dated 21/6/1995**

in

H.C.C.C. NO. 2096 OF 1991)

RULING:

In this motion, the applicants seek extension of time within which to lodge their appeal in this Court which, according to their counsel, Mr. Vadgama, was filed in this Court on 16th December, 1997. From the certificate of delay annexed to the affidavit in support of the applicants' application, the applicants received certified copies of the proceedings and the ruling intended to be appealed from on 16th October, 1997. Having lodged that appeal on 16th December, 1997, it would appear that the applicants were one day outside the sixty days period prescribed by rule 81(1) of the Rules of this Court for lodging an appeal in this Court. This delay, according to counsel for the applicants, was not inordinate. On account of this therefore, counsel prays that the applicants' application be granted.

Whereas counsel for the respondents seem to have left to the court the issue of whether or not the delay of one day in lodging the appeal is excusable, they each are of the view that the costs occasioned by the applicants' application should respectively be awarded to them. In other words, save for the award of costs, the respondents do not appear to strenuously oppose the applicants' application.

Although the delay of one day in lodging an appeal in this Court may certainly not be inordinate, it may not always be excusable. Each such delay may depend on the peculiar circumstances of each such application for extension of time before the exercise of discretion by this court under rule 4 of the Rules of this Court. No such circumstances have been urged on behalf of the applicants in the present application.

Nonetheless, the application being not so seriously opposed by the respondents and the appeal having already been filed, I would in the exercise of my discretion under rule 4, supra, grant the applicants'

application and extend time for lodging their appeal to 16th December, 1997 so that the said appeal be deemed to have been lodged within the extended time. However, the costs occasioned by the applicants' application are awarded to the respondents in any event.

Dated and delivered at Nairobi this 20th day of March, 1998.

J.E. GICHERU

JUDGE OF APPEAL

I certify that this is a true copy of the original.

DEPUTY REGISTRAR