

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 9161 OF 2019  
(Arising out of Special Leave Petition (Civil)No.23697 of 2019)

M/s. SINGAL UDYOG ...Appellant

Versus

NATIONAL INSURANCE COMPANY LTD. & ORS. ...Respondents

**O R D E R**

Leave granted.

This appeal challenges the order dated 11.06.2019 passed by the National Consumer Disputes Redressal Commission, New Delhi (for short, 'the National Commission') rejecting First Appeal No.610 of 2019.

There was delay of 150 days in preferring the First Appeal which was not condoned by the order under appeal and consequently the First Appeal stood dismissed. However, the National Commission also observed that there was apparent lack of merits in the matter and finally passed order as under:-

“11. In view of the detailed discussion above, this appeal is at the stage of admission itself, dismissed on grounds of both an inordinate delay of 150 days as well as on an apparent lack of merit.”

We have heard learned counsel for the parties and have perused the record.

The issue whether a Tribunal or a Forum, after having come to the conclusion that the matter was barred by limitation, could consider merits of the matter, was gone into by this Court in *State Bank of India vs. B.S. Agriculture Industries (I)*<sup>1</sup> as under:-

“12. As a matter of law, the consumer forum must deal with the complaint on merits only if the complaint has been filed within two years from the date of accrual of cause of action and if beyond the said period, the sufficient cause has been shown and delay condoned for the reasons recorded in writing. In other words, it is the duty of the consumer forum to take notice of Section 24A and give effect to it. If the complaint is barred by time and yet, the consumer forum decides the complaint on merits, the forum would be committing an illegality and, therefore, the aggrieved party would be entitled to have such order set aside.”

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1 (2009) 5 SCC 121

The aforesaid view was relied upon by the Division Bench of the Allahabad High Court in *Commissioner, Customs, Central Excise and Service Tax vs. Monsanto Manufacture Pvt. Ltd.*<sup>2</sup> to observe as under:-

“21. The Tribunal came to the conclusion that the demand by the Revenue was beyond the period of limitation of one year prescribed under Section 73(1) of the Finance Act, 1994 and that the period of five years could not have been invoked. That part of the judgment of the Tribunal has been confirmed in the companion appeal. Once that be the position and the Tribunal having come to the conclusion that the extended period of limitation could not have been validly applied, the Tribunal, in our view, acted outside its jurisdiction in entering upon the merits of the dispute on whether the demand for duty should be confirmed. Once it is held that the demand is time-barred, there would be no occasion for the Tribunal to enquire into the merits of the issues raised by the Revenue.”

In the circumstances, the National Commission, having found that the appeal was barred by time, could not have dealt with merits of the matter.

In any case, the delay of 150 days, in the present circumstances, was not so alarming that the matter should have been rejected on the ground of delay.

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<sup>2</sup> (2014) 45 GST 699 (Allahabad), 2014[35]S.T.R.177 (All), (2014) 71VST269(All)

In the circumstances, subject to the appellants paying a sum of Rs.25,000/- by way of costs to the respondent, we condone the delay of 150 days in preferring the First Appeal. Let the amount be deposited in the Registry of the National Commission within four weeks from today.

Upon deposit of the amount, the parties shall appear before the National Commission on 20.01.2020.

We thus allow the appeal, set aside the view taken by the National Commission and restore the First Appeal No.610 of 2019 to the file of the National Commission to be disposed of in accordance with law.

.....J.  
[Uday Umesh Lalit]

.....J.  
[Vineet Saran]

New Delhi;  
December 2, 2019.

