

2022 LiveLaw (SC) 964

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
SANJIV KHANNA; J., J.K. MAHESHWARI; J
NOVEMBER 14, 2022
CIVIL APPEAL NO. OF 2022 (@SLP(C) No. 11225 OF 2022)

M/S LAXMI SRINIVASA R AND P BOILED RICE MILL
versus

THE STATE OF ANDHRA PRADESH & ANR.

Limitation Act, 1963; Section 14 - Exclusion of time is different, and cannot be equated with condonation of delay. The period once excluded, cannot be counted for the purpose of computing the period for which delay can be condoned - For exclusion of time under Section 14, the conditions stipulated in Section 14 have to be satisfied. Referred to Consolidated Engineering Enterprises vs Principal Secretary, Irrigation Department (2008) 7 SCC 169 and Kalpraj Dharamshi vs Kotak Investment Advisors Limited (2021) 10 SCC 401.

(Arising out of impugned final judgment and order dated 29-09-2021 in WP No. 28436/2018 passed by the High Court of Andhra Pradesh at Amravati)

For Petitioner(s) Mr. Vidya K. Sagar, Adv. Mr. Ajit Kumar Jha, Adv. Mr. K. S. Rana, AOR

For Respondent(s) Mr. Mahfooz A. Nazki, AOR Mr. Polanki Gowtham, Adv. Mr. Shaik Mohamad Haneef, Adv. Mr. T. Vijaya Bhaskar Reddy, Adv. Mr. K.V.Girish Chowdary, Adv. Ms. Rajeswari Mukherjee, Adv. Ms. Niti Richhariya, Adv.

ORDER

Leave granted.

The impugned order passed by the High Court affirming the order dated 27.04.2018 passed by Appellate Deputy Commissioner (CT) (FAC), Vijayawada, holding that the delay is beyond condonable period is unsustainable in law.

It is an accepted position that the appellant had filed a writ petition before the High Court on 24.02.2018, which was not entertained *vide* the order dated 07.03.2018 on the ground that the appellant should approach the Appellate Authority. The appellant is entitled to ask for exclusion of the said period in terms of Section 14 of the Limitation Act, 1963. Exclusion of time is different, and cannot be equated with condonation of delay. The period once excluded, cannot be counted for the purpose of computing the period for which delay can be condoned. Of course, for exclusion of time under Section 14 of the Limitation Act, 1963, the conditions stipulated in Section 14 have to be satisfied.¹

In the facts of the present case, we find that the period from the date of filing of the writ petition on 24.02.2018 and the date on which it was dismissed as not entertained viz. 07.03.2018, should have been excluded. The writ proceedings were maintainable, but not entertained. Bona fides of the appellant in filing the writ petition are not challenged. Further, immediately after the dismissal of the writ petition, the appellant did file an appeal before the Appellate Authority. On exclusion of the aforesaid period, the appeal preferred by the appellant would be within the condonable period. Accordingly, we direct that the application for condonation of delay filed by the appellant would be treated as allowed. The delay is directed to be condoned.

Recording the aforesaid, the appeal is allowed with the direction that the Appellant Authority would examine the appeal on merits.

We clarify that have not expressed any opinion on the merit of the case.

Pending application(s), if any, shall stand disposed of.

© All Rights Reserved @LiveLaw Media Pvt. Ltd.

*Disclaimer: Always check with the original copy of judgment from the Court website. Access it [here](#)

¹ See Consolidated Engineering Enterprises Vs. Principal Secretary, Irrigation Department and Ors., (2008) 7 SCC 169 and Kalpraj Dharamshi and Anr. Vs. Kotak Investment Advisors Limited and Anr., (2021) 10 SCC 401