

(2001) 02 SC CK 0147

In the Supreme Court Of India

Case No : Civil Appeal No. 5191 of 1997

Equipment Conductors and Cables Ltd.

APPELLANT

Vs

Haryana State Electricity Board and Another

RESPONDENT

Date of Decision : 20-02-2001

Acts Referred:

Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993 — Section 3, 4, 5, 6
Constitution of India, 1950 — Article 226

Citation : AIR 2002 SC 2533 : (2002) AIRSCW 2751 : (2001) 10 JT 566 : (2003) 41 SCL 39

Hon'ble Judges : V. N. Khare, J;S. N. Variava, J

Bench : Division Bench

Final Decision : Dismissed

Judgement

1. The appellant herein entered into an agreement with the Haryana State Electricity Board (hereinafter referred to as "the Board") for supply of certain materials. One of the terms stipulated in the agreement was that the appellant shall supply the materials within one month from the date of receipt of the purchase order issued by the Board. It is not disputed that on 1st and 2nd July, 1992, purchase orders were received by the appellant for supply of materials. It is also not disputed that the appellant commenced the supply of material with effect from 15th September, 1992. Thereafter, the President of India promulgated an ordinance known as "Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993". The said ordinance was replaced by an Act of 1993. The Act came into force with effect from 23rd September, 1992. Section 3 of the Act provides for the liability of buyer to make payment; Section 4 of the Act provides the award of interest where the price has not been paid within time and Section 5 of the Act provides for the liability of buyer to pay compound interest. The case of the appellant is that despite the supply having been made to the Board, the Board did not make payment of the price of the goods supplied within the appointed date, with the result the Board

is liable to pay interest to the appellant under the Act. Under these circumstances, the appellant filed a petition under Article 226 of the Constitution of India before the High Court of Punjab and Haryana for a direction to the Board to pay the interest which accrued to them on the date of payments. The High Court disposed of the writ petition by directing the Board to decide the representation of the appellant. The Board rejected the representation of the appellant firstly on the ground that the Act is not applicable and secondly, that the appellant is defaulter having not supplied the goods within the time and, therefore, is not entitled to the interest. The appellant filed another petition, which was dismissed by the High Court on the ground that since disputed questions of facts are involved, therefore, the remedy of the appellant is to file a suit in the Civil Court. The appellant, thereafter, filed a Letters Patent Appeal. In the said Letters Patent Appeal, the Board took an additional plea that the appellant is not a small scale industry and, therefore, not entitled to the interest, as provided under the Act. The Letters Patent Bench dismissed the said appeal on the ground that there are disputed questions of facts and further under Section 6 of the Act, the appellant is required to file a civil suit. Aggrieved by the said judgment, the appellant is before us in this appeal.

2. We have heard counsel for the parties and we are in agreement with the view taken by the High Court that the remedy available to the appellant is to file a suit in the Civil Court. Admittedly, the appellant is claiming interest under the Act and, therefore, remedy open to the appellant is to file a suit in the Civil Court or take such proceedings which may be permissible under law.

3. For the aforesaid reasons, we do not find any merit in the appeal and it is, accordingly dismissed with costs. However, before we part with the case, we would like to observe that any observation made by the High Court touching upon the merits of the matter will not come in the way of the appellant before the appropriate authority or Court.