
(1995) 11 NCDRC CK 0033

In the National Consumer Disputes Redressal Commission

MODI INDUSTRIES

APPELLANT

Vs

N.K.CHHABRA

RESPONDENT

Date of Decision : 09-11-1995

Acts Referred:

Citation : 1995 0 NCDRC 155 : 1996 1 CPJ 300

Hon'ble Judges : S.S.CHADHA , R.THAMARAJAKSHI , S.P.BAGLA J.

Advocate : DEEPAK DHINGRA , AMARNATH

Judgement

1. THIS Petition has arisen out of the Order dated 10th November, 1994 passed by the State Consumer Disputes Redressal Commission, Union Territory, Chandigarh in Appeal Case No. 212 of 1993 filed by the present Petitioner Modi Industries who was the opposite party before the District Forum in the complaint filed by the present respondent, N.K Chhabra.

2. THE brief facts leading to this Revision Petition are that the District Forum had disposed of the complaint vide order dated 13th October, 1992. The present Petitioner sent the appeal memorandum to the State Commission by registered post which was received in that office on 23rd November, 1993 i.e. after 41 days from the date of the order of the District Forum. Relying upon Section 15 of the Consumer Protection Act, 1986 and Sub-rule (4) of Rule 8, Chandigarh Consumer Protection Rules, 1987, the State Commission dismissed the appeal as barred by time as there was no application filed by the appellant, therein for condoning the delay. The learned Counsel for the Petitioner argued that in the present case there was no delay in filing the appeal as it was filed within 30 days from the date of the receipt of the order of the District Forum and hence as there was no delay in filing the appeal, there was no necessity for filing an application for condonation of delay. He has drawn our attention to Annexure "B" at page 10 of the paperbook which is a covering letter No. 3600 dated 2nd November, 1993 addressed by the President of the District Forum, Chandigarh to the parties to the case enclosing a certified copy of its order dated 13th October, 1993. This copy of the Order must have been received by the present Petitioner after 2nd

November, 1993. In fact, it was received on 8th November, 1993 as mentioned by the Revision Petitioner in the petition. Thus the memorandum of appeal filed before the State Commission by the Petitioner was well within 30 days from the date of receipt of the copy of the order of the District Forum by the present Petitioner. Even if we do not believe the contention of the Petitioner that the copy of the order was received by it on 8th November, 1993, even then, the appeal was within 30 days at least from the date of the despatch of the Order. The Petitioner has also filed the envelope in which the District Forum had sent the covering letter bearing No. 3600 which is at page 47 of the paperbook.

3. IT has been the consistent view of this Commission that the period of limitation of 30 days for filing an appeal under Section 15 of the Act shall be computed against the appellant only from the date on which a copy of the order was communicated to the appellant unless it be a case where the order has been announced in his presence in open Court. Thus, the appeal filed before the State Commission was clearly within limitation and in such circumstances there was no necessity for the Petitioner to file an application for condonation of delay in filing the appeal before the State Commission. The impugned order is contrary to the aforesaid principle and it is, therefore, liable to be set aside.

4. ACCORDINGLY , we set aside the order of the State Commission. The State Commission is directed to restore the appeal to file and dispose it of on merits treating the appeal as having been filed within prescribed time. We leave the parties to bear their own expenses in the present proceedings.