

(1987) 10 AHC CK 0017

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 250 of 1986

Paliwal Steels Pvt. Ltd.

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 29-10-1987

Acts Referred:

Citation : (1988) 15 ECC 134 : (1988) 15 ECR 273 : (1988) 35 ELT 465

Hon'ble Judges : Om Prakash, J;K.P. Singh, J

Bench : Division Bench

Final Decision : Allowed

Judgement

K.P. Singh, J.—By means of this writ petition, the petitioner has challenged the order of other Tribunal contained in Annexure A5 attached with the Writ Petition whereby the petitioner's appeal has been dismissed on the ground of limitation and the delay has not been condoned, on 19.2.1986, a Bench of this Court granted time to the learned Counsel for the Union of India to file counter affidavit but no counter affidavit has been filed in this case.

2. We have heard the learned Counsel for the parties and we have perused the impugned judgment. A bare reading of the impugned judgment indicates that the Tribunal has taken a technical view in not condoning the delay on the part of the petitioner. The tend of the authorities of the Highest Court in the country is to the contrary. In Collector, Land Acquisition, Anantnag and Another Vs. Mst. Katiji and Others, , their Lordships of the. Supreme Court have indicated that while considering the Question of limitation, there should be liberal approach They have also indicated that if the delay is not on account of Culpable negligence and deliberate or mala fide intention it should ordinarily be condoned.

3. In our opinion the Tribunal has not examined the case on correct angle. The very fact that against the impugned order, there are 8 appeals still pending and the appellant has brought to the notice of the Tribunal that the Manager was a little negligent and he has been removed, still the conscience of the Tribunal was

not shocked and the delay has not been condoned. In the facts and circumstances of the case, we feel that the Tribunal has not acted reasonably and taken too technical view which hampers the ends of justice. In our opinion, it is a fit case where the delay should have been condoned by the Tribunal and the appeal should have been entertained and decided on merits.

4. In view of what has been said above, we think that this writ petition should succeeds and we accordingly allow the writ petition and quash the impugned judgment contained in Annexure A5 to the writ petition. We direct the Tribunal to admit the appeal of the petitioner and hear the claim of the petitioner on merits rather than indulge in technicalities to hamper the ends of justice. In the circumstances of the case, the parties are directed to bear their own costs.