
(2002) 07 NCDRC CK 0040

In the National Consumer Disputes Redressal Commission

S.A.RAWTHER SPICES (P) LTD.

APPELLANT

Vs

Bank of India

RESPONDENT

Date of Decision : 29-07-2002

Acts Referred:

Citation : 2002 3 CPJ 145 : 2002 3 CPR 226

Hon'ble Judges : D.P.Wadhwa , J.K.Mehra , Rajyalakshmi Rao , B.K.Taimni J.

Advocate : S.K.Srivastava

Final Decision : Dismissed

Judgement

1. THE complaint was filed on 12.7.2002 with an application seeking condonation of delay under Section 24A of the Consumer Protection Act, 1986. Admittedly, cause of action arose some time in 1995. This complaint came to be filed in the year 2002 obviously barred by limitation.

2. COMPLAINT pertains to commercial transaction which the complainant was having with the respondent-Bank. It is not necessary for us to detail the facts in detail except to note that the complainant, an exporter of frozen meat to Kuwait. COMPLAINT was that the Bank wrongly debited an amount of US \$ 86978.50 in the account of the complainant. Bank did not respond to various letters of the complainant right from 1.2.1995 as to why there was a debit entry in the account of the complainant. Alleging deficiency in service by the Bank complainant filed a complaint in the Karnataka State Consumer Disputes Redressal Commission it being C. No. 111/1998. On 17.2.1999 written version was filed denying the claim of the complainant. On 7.2.2000 complainant withdrew this complaint. It was, therefore, dismissed as withdrawn. Complainant states that he withdrew this complaint on false assurances given by the Bank that certain credit facilities will be given to it and when the Bank went back on its assurances complainant filed yet another complaint in the Karnataka State Consumer Disputes Redressal Commission, it being C. No. 102/2001. Strangely, complainant alleges that this complaint was wrongly entertained by the State Commission as the amount claimed was over and above the jurisdiction of the

State Commission. Complainant, therefore, withdrew this complaint on 28.6.2002 and thereafter filed this complaint before this Commission on 12.7.2002. Following are the prayers in the complaint. (a) Direct the respondents to pay 86,978.50 US Dollars convertible in Indian Rupees @ 49 per dollar which comes approximately to Rs. 42,61,946/- and Rs. 13,29,712/- including the interest as per the rules of the RBI to the complainant from the date of the illegal debit till realization of the amounts from the respondents. (b) Direct the respondents to pay a sum of Rs. 5,00,000/- as damages for mental agony and physical inconvenience caused to the complainant. (c) Direct the respondents to pay the legal notice charges of Rs. 5,000/- and cost of the complainant of Rs. 10,000/- to the complainant; and (d) Pass such other order/s, relief/s, as this hon"ble Court deems fit to grant in the circumstances of the above complaint, in the interest of justice and equity.

It would be seen that the amount claimed pertains to US \$ 86,978.50. Since US Dollars have become stronger by course of time the claim is now over and above Rs. 42,00 lakh.

3. WITH this background question arises : it it a case where delay should be condoned ? Under the Consumer Protection Act, there is a limit of two years for filing the complaint from the date on which the cause of action has arisen. There is no dispute that in the present case cause of action arose to the complainant in 1995. Since then 7 years have passed. Even a suit in a Civil Court would be barred by limitation. Sub-section (2) of Section 24A does authorise the National Commission to condone the delay, if there is sufficient cause shown for not filing the complaint within the prescribed period. We hardly find any cause shown not to file a complaint within the period of limitation. It is a purely commercial transaction between the complainant and the Bank. In our view, Sub-section (2) of Section 24A cannot be invoked in a case like this where complainant having crores of business with all the resources at his command for availing services of legal Pandits for legal advice. In our view, such a complaint with an application seeking condonation of delay should never have been filed. It is misuse of the Commission. We, therefore, dismiss this complaint with cost which we assess at Rs. 10,000/-. Such payment shall be made by way of demand draft/crossed cheque drawn in the name of the "NCDRC Bar Association (Legal Aid)" and shall be deposited in the office of the NCDRC Bar Association, 5th Floor, "A" Wing, Janpath Bhawan, New Delhi. Complaint dismissed.