

(2024) 07 UK CK 0013

In the Uttarakhand High Court

Case No : Appeal From Order No. 270 Of 2024

State Of Uttarakhand And Another

APPELLANT

Vs

M/S Bharat Bhumi Builders And Another

RESPONDENT

Date of Decision : 09-07-2024

Acts Referred:

Commercial Courts Act, 2015 — Section 13(1A)
Arbitration And Conciliation Act, 1996 — Section 17, 37
Limitation Act, 1963 & mdash; Article 116, 117

Citation : (2024) 07 UK CK 0013

Hon'ble Judges : Ritu Bahri, CJ;Rakesh Thapliyal, J

Bench : Division Bench

Advocate : P.C. Bisht, Vikas Bahuguna

Final Decision : Dismissed

Judgement

Ritu Bahri, CJ

1. The State has come up in the appeal against the order dated 28.04.2023, passed by the learned Additional District Judge/ Commercial Court, Dehradun in Arbitration Case Nos. 163/2019 and 164/2019, whereby the award passed by the Arbitrator has been upheld.

2. At this stage, a reference can be made to the order passed by this Court in State of Uttarakhand & others v. Sandesh Kumar (AO No. 406 of 2022 and connected cases) dated 21.03.2024, where, on account of the delay, the appeal filed by the State has been dismissed simply on the ground that the provisions of the Limitation Act are to be followed very strictly in the arbitration proceedings.

3. One such judgment of the Division Bench of this Court was rendered in State of Uttarakhand & others v. M/s Hillways Constructions Company Pvt. Ltd. (A.O. No. 127 of 2021), decided on 07.03.2022, wherein, after examining the provisions of Section 13(1A) of the Commercial Courts Act, 2015, which only provides for condonation of delay of 30 days and 60 days, the application for

condonation of delay of 85 days was dismissed, taking note of the judgment of Hon'ble Supreme Court in Government of Maharashtra (Water Resources Department) Represented by Executive Engineer v. Borse Brothers Engineers and Contractors Private Limited, (2021) 6 SCC 460, wherein, in paragraph no. 63, it has been held as under :

"Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or section 13(1-A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches."

4. In the present case, the delay is of 341 days, and keeping in view the detailed judgment passed by this Court, no case for condoning the delay is made out.

5. In view of the above discussion, the present Appeal from Order is dismissed.

6. Pending application(s), if any, also stand disposed of accordingly.