(1988) 09 SC CK 0008

In the Supreme Court Of India

Case No : S.L.P. (Civil) No''s. 3772-73 of 1987

Union of India and Others — APPELLANT

Vs

Tata Yodogawa Ltd. and Another — RESPONDENT

Date of Decision : 21-09-1988

Acts Referred:
Central Excises and Salt Act, 1944 — Section 11A

Citation : (1988) 19 ECR 569 : (1989) PLJR 5

Hon'ble Judges : Sabyasachi Mukharji, J;S. Ranganathan, J;M.H. Kania, J

Bench : Full Bench

Final Decision : Dismissed

Judgement

1. These petitions for special leave to appeal are against the judgment and order dated 9th September, 1986 of the High Court of Patna, Ranchi Bench. It appears according to the office report on limitation that the SLP is delayed by 51 days. The application for condonation of delay was filed on behalf of the Petitioners stating therein that due to "inter departmental correspondence and processing of the matter to enable the department to file the instant petition".

2. List of Dates in the application for condonation of delay gives interesting reading as follows:-

4.11.86 The date of receipt of certified copy of the High Court, Patna's Judgment.

18.11.86 The Collector of Central Excise, Patna, forwarded the proposal to the Board for filing the SLP in Supreme Court.

24.11.86 The date on which the Collector's proposal was received in the Board.

3.12.86 The Board referred the proposal to M/o Law and Justice (Advice-B) to find out the feasibility of filing SLP in the Supreme Court.

26.12.86 The Board received back the proposal along with a copy of draft SLP.

10.2.87 The proposal was again referred to M/o Law and Justice (CAS) as some legal problems arose in filing the S.L.P.

27.2.87 The proposal was received back from M/o Law and Justice (CAS), New Delhi. 6.3.87 File sent back for Central Agency Section for filing SLP. Thereafter the copy of the documents were got prepared and filed the SLP in the Court.

3. From 26.12.86 to 10.2.87 and from 6.3.87 to 24.3.87 there is no cogent and possible explanation. It may be mentioned that the SLP was actually filed on 23.2.87. There is no whisper to explain what "legal problems in filing the SLP arose"; it appears to us that no attempt has been made to explain this delay. In that view of the matter we gave further opportunity to the Petitioners to file additional affidavit explaining the cause, if any, for this delay. It is further stated in the rejoinder affidavit to the counter affidavit on behalf of the Respondents that "such delay is always beyond the control especially in Government matters as the file has to be routed through several Sections of the Department". We are aware of the fact that the Government being impersonal takes longer time than the private Bodies or the individuals. Even giving that latitude, there must be some way or attempt to explain the cause for such delay. As stated from the facts narrated hereinbefore there is no sufficient cause to explain the delay. Hence, the application for condonation of delay is dismissed. In any event, the order passed u/s 11A of the Central Excises and Salt Act, 1944, was passed without any notice to the Respondents as required therein, that was clearly bad and this point, in our opinion, cannot be re-agitated. The conclusion arrived at by the High Court was right. In that view of the matter these special leave petitions must fail and are therefore, dismissed accordingly.

