

S UP R E M E C OUR T OF I N D I A
R E C O R D OF P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Civil)...../2 0 0 7
CC 57 7 9 / 2 0 0 7

(From the judgement and order dated 24/ 1 1 / 2 0 0 6 in MA No. 36 5 / 2 0 0 2 of
The HIGH COURT OF P A T N A)

HINDUS T A N LIV E STOC K AGE NC Y Petitioner(s)

VER SUS

DY.COM M R . O F INCOM E TAX,CI R C L E - I, P A T N A Respondent(s)

With IA 1 (c/delay in filing & refiling SL P and office report)

Date: 16/ 0 7 / 2 0 0 7 This Petition was called on for hearing today.

CORAM :

HON' B L E MR. JUS T IC E ASHO K BHA N
HON' B L E MR. JUS T IC E V.S. SI R P U R K A R

For Petitioner(s) Ms. Shivalak s h mi, Adv. for
Mr. T. Mahipal,Adv.

For Respondent(s)

UPON hearing counsel the Court made the following
O R D E R

Delay condoned.

The Tribun al had disposed of four appeals by a common order. Against one of the cases, the assessee filed Special Leave Petition © No.8 5 2 7 of 20 0 7 . The same was dismissed by us on 16 th May, 20 0 7 in the following terms:

"The Income Tax Appellate Tribun al [for short "the Tribun al"] by its order dated 25 th Febru a ry, 20 0 2 passed in ITA No. 24 8(P a t)/ 2 0 0 1 set aside the order of the CIT (Appeals) and allowed the appeal of the revenue on merits after condoning the delay in filing the appeal without notifying the petitioners.

Being aggrieved, the petitioner filed a Misc. Application No. 9/ P a t of 20 0 4 under Section 25 4(2) of the Income Tax Act [for short "the Act"] for rectification of the order on the ground that the delay could not be condoned without notifying the petitioner and as well as on merits. The Tribun al by its order dated 12 th October, 20 0 6 allowed the aforesaid Misc. Application under Section 25 4(2) of the Act for the limited purpose of rectifying the mistake in condoning the delay without notifying the petitioner.

In the meantime, petitioner had already filed an appeal against the order passed by the Tribun al dated 25 th Febru a ry, 20 0 2 setting aside the order of CIT (Appeals) and restoring the order of the assessing authority. The

High Court has dismissed the appeal filed by the petitioner in li m i n e .

Since the matter had already been re-oped by the Tribun al on the question of limitation, the appeal filed by the petitioner before the High Court became infructuous and should not have been pressed.

We dismiss this petition reserving liberty with the petitioner to approach the High Court again in appeal on merits as well as on the point of limitation, if the Tribun als holds against the petitioner on the issue of limitation."

The present special leave petition is also dismissed in terms of the order passed in SL P (C) No. 85 2 7 of 20 0 7 , reproduced above.

(Parveen Kr. Chawla)
Court Master

(Neeru Bala Vij)
Court Master