

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Part-heard:

Petition(s) for Special Leave to Appeal (Civil) No.13518-13519/2000

(From the judgement and order dated 15/11/1999 in FAO 100/97
,FAO 100/97
of The HIGH COURT OF DELHI AT N. DELHI)

NARAIN COLD STORAGE & ALLIED IND.PVT.LTD

Petitioner (s)

VERSUS

M/S. DELHI FINANCE CORPORATION

Respondent (s)

(With prayer for interim relief)
(With Appln(s). for c/delay in filing SLP)

Date : 24/11/2000 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE M. JAGANNADHA RAO
HON'BLE MR. JUSTICE K.G. BALAKRISHNAN

For Petitioner (s) Mr.PP Rao,Sr.Adv.
Mr.Ranjit Kumar,Sr.Adv.
Mr. K.K. Mohan,Adv.

For Respondent (s) Mr.CS Vaidyanathan,Sr.Adv.
Mr.Gautam Awasthi,Adv.
Ms.Poonam Sharma,Adv.
Mr. D. Mahesh Babu,Adv.

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

.SP2

.....L.....I.....T.....T.....T.....T.....T.....T.....J
Delay condoned.

Inspite of the concession of the counsel appearing for the petitioner before the High Court this Court proceeded to see if there was any agreement by the parties for simple interest and if any injustice was done in computing compound interest rather than simple interest.

.PA

:2:

Elaborate arguments have been advanced before us on the last two occasions as well as today and we find that after the compromise on 6.4.77 in which it was mentioned 14% rate of interest will be charged, the Corporation was debiting compound interest every six months as per the account sheet produced in the Court and the compromise itself specifies that interest to be

debited after every six months This is how the Corporation understood the terms of the compromise for over 10 years.

It is not possible to believe that the petitioner did not know the manner in which the Corporation was maintaining its accounts for over 10 years. The petitioner is a commercial concern and it must normally be presumed that it must be aware of the manner in which the Corporation is maintaining its accounts. At any rate as per commercial practice, interest statements would normally be sent to the clients after every six months or atleast once in a year. The petitioner has also not produced before us the manner in which it was maintaining its income tax accounts. It normally to be presumed that for the purpose of income tax, the petitioner must have got the Bank statements and known its contents and never complained against levy of compound interest.

.PA

:3:

For the aforesaid reasons and in view of the contemporaneous and subsequent conduct and particularly for the reason that Corporation was debiting compound interest for over 10 years, the SLP is dismissed.

.SP1

(Usha Bhardwaj)
P.S. to Registrar

(D.D.Jindal)
Court Master