

PETITIONER:
UNION OF INDIA & ORS.

Vs.

RESPONDENT:
VISVESWARAYA IRON & STEEL LTD.

DATE OF JUDGMENT 24/11/1986

BENCH:
BHAGWATI, P.N. (CJ)
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BHAGWATI, P.N. (CJ)
MISRA RANGNATH

CITATION:
1987 AIR 669 1987 SCR (1) 367
1987 SCC Supl. 192 1986 SCALE (2) 1253

ACT:

Practice and Procedure--Delay in filing the Special Leave Petition not explained in the petition--Party desiring to file a supplemental affidavit to explain it, when the case is called for, after a lapse of nearly two years, hearing-Delay cannot be condoned--Supreme Court Rules, 1966, Order XLVII Rule 1 read with Section 5 of the Limitation Act.

HEADNOTE:

Dismissing the SLP and CMP, the Court,

HELD: In the absence of any ground having been made out in the application for the condonation of delay in filing the Special Leave Petition, filed on 7.1.85, excepting the listing of dates on which different departments took steps in passing on the file, the Supreme Court cannot exercise its inherent powers under Rule 1 of Order XLVII of the Supreme Court Rules read with section 5 of the Limitation Act, 1963 and condone delay. Nor would it grant permission upon oral request to file a supplemental affidavit after a lapse of nearly two years. [368C-D]

JUDGMENT:

CIVIL APPELLATE JURISDICTION: Petition For Special Leave to Appeal (Civil) No. 2448 Of 1985

From the Judgment and Order dated 10.7.84 of the High court of Karnataka at Bangalore in Writ Appeal No. 1267/84. B. Datta, ASG. and Ms. S. Relan for the Petitioner.

The following Order was delivered

This Special Leave Petition has been filed beyond the period prescribed by the Rules for filing a special leave petition. The petitioner has filed an application for condonation of delay in filing the special leave petition. There are no grounds made out in the application for condonation of delay and the only material set out in the application is the list of dates as starting from the date of receipt of the certified copy of the judgment upto the dates of filing of the Special Leave Petition. It appears from the list of dates that the certified copy was received by the Collector of Central Excise on 22nd July, 1984 (wrongly

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mentioned as 22nd July, 84) and it was after a period of two months, on 29th September, 1984 that the certified copy was despatched by the Collector of Central Excise to the Ministry of Finance. The Ministry of Finance referred the Case to the Central Agency Section on 15th October, 1984. But the Central Agency Section sent back the case to the Ministry of Finance with the remark that the same should be sent to the Ministry of Law. This process of realisation that the case should have been referred to the Ministry of Law and not to the Ministry of Finance took about 24 days and thereafter, again, some time was taken up at the subsequent stages. The learned Additional Solicitor General gave his opinion on 18th December, 1984 that the special leave petition should be filed. But even thereafter, there was a delay of more than a month and a half and on 7th July, 1985, a special leave petition was filed without offering any explanation for this delay at three stages. The Learned Additional Solicitor General requested us to give him an opportunity to file a supplemental affidavit explaining the delay at the three stages. But we do not see why any further time should be granted to the petitioners to file a supplemental affidavit. The application for condonation of delay was made on 7th January, 1985 and we are now in November 1986 and the petitioners thus had a period of about one year and nine months to rectify the defect by filing a supplemental affidavit but the petitioners have failed to do so. We do not under the circumstances find any justification for condoning the delay and the application is therefore rejected and so is the Special Leave Petition.

S.R.
dismissed.
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Petition