

CASE NO.:
Appeal (civil) 1761 of 2008

PETITIONER:
SPIE CAPAG

RESPONDENT:
UNION OF INDIA & ANR

DATE OF JUDGMENT: 03/03/2008

BENCH:
S.H. KAPADIA & B. SUDERSHAN REDDY

JUDGMENT:
JUDGMENT
O R D E R

CIVIL APPEAL NO. 1761 OF 2008
(Arising out of SLP(C)No. 19376/2007)

Leave granted.

After pendency of the writ petition for twenty years the High Court has held that since the writ petition was filed against show cause notice the parties ought to have gone through the process of adjudication and since that was not done the petition stood dismissed.

In the present case we are concerned with project import. Appellant contends the case is covered by the judgment of this Court in the case of Union of India v. Tovo Engineering Ltd. 2006 (7) SCC 592. Learned counsel for the Department contends before us that some of the equipments in the project were not prime movers.

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Suffice it to state that the High Court should not have dismissed the writ petition after twenty years without examining the allegations in the show cause notice and without considering the judgment of this Court in the case of Tovo Engineering Ltd. (supra).

Accordingly we set aside the impugned order and restore the writ petition to the file of the High Court. We do not wish to express any view on the merits of the case. All contentions on both sides are expressly kept open. We grant liberty to Union of India to file additional affidavit, if so advised. Needless to add that the appellant may file its further rejoinder, if so advised.

The bank guarantee and the bonds furnished during the pendency of the writ petition shall be kept alive.

This appeal is allowed.