

Kashyap Zip Ind

Vs

Union of India and Others

SLP (Civil) No. 12077 of 1992

(M.N. Venkatachaliah, S.C. Agarwal, Dr. A.S. Anand JJ)

11.11.1992

ORDER

1. The petitioner seeks special leave to appeal to this Court from the order dated April 7, 1992 made by the High Court of Delhi in C. R. No. 2032 of 1992 and connected cases disposing of a batch of writ petitions. This special leave petition is confined to the order insofar as it relates to C. R. No. 2032 of 1992.
2. Respondents 1 and 2 are the main contesting parties and are duly served. But, they have chosen to remain unrepresented. The question raised before the High Court in the writ petition, as rightly observed by the High Court was concluded by the pronouncement of this Court.
3. The correctness of the dismissal of the writ petition is not assailed by the petitioners. Their grievance is against that part of the order by which the High Court directed the petitioner to pay interest on the amount of duty for the period during which the stay granted by the High Court was in operation. The occasion for imposing a liability for interest arose this way : In the writ petition, the petitioners had sought before and were granted by the court an interim order staying the recovery of the disputed duty, upon terms as to security by way of execution of bonds and furnishment of bank guarantees. The High Court while dismissing the writ petition, directed the bank guarantees and the bonds to be enforced and took note of the fact that the petitioners had kept back the duty during the pendency of the proceedings, and felt persuaded to the view that, in the circumstances of the case, the respondents should be entitled to interest for the period during which the duties were withheld. The High Court felt that even after the matter was finally decide by this Court in 1985, the petitioner continued to enjoy the benefit of stay and did not move the Court to have the matter disposed of. The operative part of the order of the High Court reads :

"Since the petitioners have benefits of keeping back the payment of duty under the orders of this court, we order that the respondents will be entitled to recover the amount with interest at the rate of 17.5 per cent per annum from the petitioners from the date of the passing of the stay order till recovery."
4. The grievance of the petitioner is that there is no justification to award interest and that at all events the percentage of 17.5 per cent is unreasonable and excessive. It is also urged that interest till the date of the decision of this Court was unjustified. Learned counsel for the petitioner submitted that the burden of the liability for interest, having regard to the rate at which and the period over which it is ordered to be paid, would cripple the petitioner's finance and industry. It was also submitted that till the pronouncement of this Court, the legality of the impost was uncertain and that the direction to pay interest for the period even prior thereto, would not be justified.

5. Having regard to the facts and circumstances of this case, we think it appropriate to reduce the rate of interest from 17.5 per cent to 12 per cent per annum. The interest shall be reckoned from January 1, 1985. The pronouncement of this Court on the basis of which the writ petition came to be dismissed, was in September, 1984. We think the interest should be reckoned from January 1, 1985 till payment.

6. The SLP is disposed of accordingly.

Court Masters.

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