

ITEM NO.17

COURT NO.14

SECTION XIV

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

Petition for Special Leave to Appeal (C) No.7312/2020

(Arising out of impugned final judgment and order dated 02-03-2020 in FAO(OS)(COMM) No. 329/2019 passed by the High Court of Delhi at New Delhi)

NTPC LTD.

Petitioner(s)

VERSUS

VOITH HYDRO JOINT VENTURE

Respondent(s)

Date : 15-09-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE HRISHIKESH ROY

For Petitioner(s)

Mr. Shailesh Madiyal, AOR  
Mr. Subhanshu Prakash, Adv.  
Mr. Kanu Agarwal, Adv.  
Mr. Sarthak Bhardwaj, Adv.

For Respondent(s)

Mr. Omar Ahmad, Adv.  
Mr. Vikram Shah, Adv.  
Mr. Pratibhanu Kharola, Adv.  
Ms. Simran Khorana, Adv.  
Mr. Tuhin Dey, Adv.  
Mr. Sumit Attri, Adv  
For M/s.Cyril Amarchand Mangaldas Aor, AOR

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

This Court vide Order dated 22-9-2020, while declining to entertain the Special Leave Petition, issued notice on the question of law with regard to limitation for filing an appeal under Section 37 of the Arbitration and Conciliation Act, 1996.

The aforesaid question was to be viewed in the light of two earlier decisions of this Court, i.e., "Union of India v. Varindera

Constructions Limited", (2020) 2 SCC 111 and "N.V. International v. State of Assam and Others", (2020) 2 SCC 209.

Learned counsel appearing for the petitioner – N.T.P.C. has fairly pointed out that the aforesaid question of law has been subsequently settled by a three-Judge Bench of this Court in "Government of Maharashtra (Water Resources Department) represented by Executive Engineer v M/s. Borse Brothers Engineers & Contractors Pvt. Ltd." (2021) 6 SCC 460.

In Para 50 of the above-cited decision, this Court has overruled the two-Judge Bench decision in N.V. International (supra) and thereafter in Para 61 has held as follows:-

"Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration Act and the Commercial Courts Act, for appeals filed under section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1A) of the Commercial Courts Act, a delay beyond 90 days, 30 days or 60 days, respectively, is to be condoned by way of exception and not by way of rule. In a fit case in which a party has otherwise acted bona fide and not in a negligent manner, a short delay beyond such period can, in the discretion of the court, be condoned, always bearing in mind that the other side of the picture is that the opposite party may have acquired both in equity and justice, what may now be lost by the first party's inaction, negligence or laches."

The Special Leave Petition is, accordingly, disposed of in the light of above reproduced legal proposition laid down by a three-Judge Bench.

(VISHAL ANAND)  
ASTT. REGISTRAR-cum-PS

(PREETHI T.C.)  
COURT MASTER (NSH)

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