

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 5704-5705 OF 2017  
(Arising SLP (C) Nos.31099-31100 of 2012)

TATA MARINE AGENCIES & ANR

... Appellants

VERSUS

L.W.S.KNITWEAR LTD.& ANR

... Respondents

O R D E R

Leave granted.

Heard Mr. Rakesh Dwivedi, learned senior counsel along with Mr. Abhijit Sengupta, learned counsel for the appellants and Mr. Aakash S., learned counsel appearing for the respondent no.1, the insured.

The present appeals, by special leave, call in question the legal propriety of the orders dated 3.7.2012 and 13.8.2012 passed in First Appeal No.221 of 2012 and Review Application No.114 of 2012 respectively passed by the National Consumer Disputes Redressal Commission, New Delhi ('the National Commission') whereby the National Commission has declined to condone the delay of 490 days in preferring the appeal as the delay has not been explained. It is submitted by Mr. Rakesh Dwivedi that the order was not communicated and that apart the petitioner had already furnished the bank guarantee of Rs.33,00,000/- (Rupees thirty three lac only) though it is not legally liable. In essence, the submission of Mr.

Dwivedi is that the delay should have been condoned by the National Commission and the appeal should not have been dismissed on the ground of delay.

The aforesaid submission of Mr. Dwivedi, learned senior counsel for the appellant, has been seriously resisted by Mr. Aakash, learned counsel appearing for the respondent no.1.

Having heard learned counsel for the parties, we are inclined to think that the National Commission should have condoned the delay subject to imposition of costs and the matter should have been heard on merits and accordingly we direct for condonation of delay subject to payment of costs of Rs.3,00,000/- (Rupees three lac only) to be paid by the appellant to the 1<sup>st</sup> respondent within six weeks hence and direct it to dispose of the First Appeal No.221 of 2012 within six months hence.

The bank guarantee shall be kept alive till the disposal of the appeal before the National Commission.

The appeals are accordingly disposed of. There shall be no order as to costs.

.....,J.  
(Dipak Misra)

.....,J.  
(A.M. Khanwilkar)

New Delhi;  
April 28, 2017.

ITEM NO.32

COURT NO.2

SECTION XVII

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(s) for Special Leave to Appeal (C) No(s). 31099-31100/2012

(Arising out of impugned final judgment and order dated 13/08/2012 in RA No. 114/2012 13/08/2012 in FA No. 221/2012 03/07/2012 in FA No. 221/2012 passed by the National Consumers Disputes Reddressal Commission, New Delhi)

TATA MARINE AGENCIES & ANR

Petitioner(s)

VERSUS

L.W.S.KNITWEAR LTD.& ANR

Respondent(s)

(with interim relief and office report)

Date : 28/04/2017 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE DIPAK MISRA  
HON'BLE MR. JUSTICE A.M. KHANWILKAR

For Petitioner(s) Mr. Rakesh Kumar Dwivedi, Sr. Adv.  
Mr. Amit Dhupar, Adv.  
Mr. Anant Kumar, Adv.  
Mr. D. Bharat Kumar, Adv.  
Mr. Tadimalla Baskar Gowtham, Adv.  
Mr. Abhijit Sengupta, Adv.

For Respondent(s) Mr. Aakssh S., Adv.  
Mr. M. P. Shorawala, AOR

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

Leave granted.

The appeals are disposed of in terms of the signed order.  
There shall be no order as to costs.

(Gulshan Kumar Arora)  
Court Master

(H.S. Parasher)  
Court Master

(Signed order is placed on the file)

