

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NOS. 236-238 OF 2017

HINDUSTAN PETROLEUM CORPORATION LTD.

...APPELLANT(S)

VERSUS

PETROLEUM AND NATURAL GAS REGULATORY
BOARD & ANR.

...RESPONDENT(S)

O R D E R

1. These appeals have been preferred against the order of Appellate Tribunal for Electricity (APTEL) dated 04.11.2006 in and by which the Tribunal has declined to condone the delay of 245 days in filing the appeal.

2. Respondent No. 2-GAIL had two upstream pipelines forming part of the Vizag to Secunderabad LPG Pipeline System from the inception of their operations. Out of the said pipelines, one line was connected to appellant's access line and the same was being used for transportation of services of the product for LPG, belonging to the appellant, transmitting LPG to the terminal of the appellant. On 12.09.2001, an agreement was entered into between the appellant-Hindustan Petroleum Corporation Limited and Respondent No. 2 for transportation services for the LPG to the appellant's terminal. Thereafter, on 08.08.2011 a supplementary agreement was entered into between them to make use of the existing low pressure line belonging to Respondent No. 2- GAIL.

3. Vide Notification dated 22.02.2013, VSPL line was brought under Respondent No. 1- Petroleum and Natural Gas Regulatory Board

w.e.f. 19.12.2012. On 20.12.2014, respondent no. 1 - Board revised the transportation tariff in the light of Amendment of Regulation 2014. By the letter dated 06.01.2015, the appellant informed the Board-Respondent No. 1 that the said pipeline is a stand-alone pipeline and the Board erred in revising the calculations in the Tariff Order dated 15.07.2015. There were various communications between the parties. By the communication dated 18.03.2016, respondent no. 1 - Board informed the appellant that there is no need for a revision in the order dated 15.07.2015 passed by the Board.

4. Being aggrieved by the tariff order dated 15.07.2015, the appellant filed the appeal before the Appellate Tribunal for Electricity (APTEL) and there was a delay of 245 days in filing the appeal. The Tribunal vide its order dated 04.11.2016, dismissed the appeal on the ground that there was no sufficient explanation for the huge delay of 245 days. Being aggrieved, the appellant has preferred these appeals.

5. We have heard Mr. Tushar Mehta, learned Solicitor General along with Ms. Megha Karnwal appearing on behalf of the appellant as well as Mr. Ajit Pudussery, learned counsel appearing on behalf of respondent no. 2 - GAIL and perused the impugned judgment and materials on record.

6. According to the appellant, after the tariff change and the order dated 15.07.2015, the appellant-HPCL kept on sending many representations to respondent no. 1 - Board praying for intervention of the Board for correction of the order dated 15.07.2015 on certain facts relied upon by the appellant. According

to the appellant they have a sufficient case to put forth for revision in the tariff order. It is submitted that the delay has been satisfactorily explained and while so Tribunal was not right in declining to condone the delay. It is fairly well settled that "sufficient cause should receive a liberal construction so as to advance a substantial justice". According to the appellant, they sent representations to respondent no. 1- Board seeking correction of the tariff order dated 15.07.2015 and the Tribunal ought to have kept in view such representations filed by the appellant while considering the question of delay.

7. Considering the facts and circumstances of the case, the delay of 245 days in filing the appeal before the Tribunal is condoned. The Tribunal shall take the appeal on file to consider the same on merits and dispose of the same in accordance with law after affording sufficient opportunity to the parties.

8. The appeals are, accordingly, disposed of.

.....J.
[R. BANUMATHI]

NEW DELHI
27TH SEPTEMBER, 2019

.....J.
[HRISHIKESH ROY]

ITEM NO.32

COURT NO.6

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

Civil Appeal No(s). 236-238/2017

HINDUSTAN PETROLEUM CORPORATION LTD.

Appellant(s)

VERSUS

PETROLEUM AND NATURAL GAS REGULATORY BOARD & ANR. Respondent(s)
(IA No. 1/2017 - STAY APPLICATION)

Date : 27-09-2019 These matters were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE R. BANUMATHI
HON'BLE MR. JUSTICE HRISHIKESH ROYFor Appellant(s) Mr. Tushar Mehta, SG
Mr. Sanjay Kapur, AOR
Ms. Megha Karnwal, Adv.
Mr. Harshal Narayan, Adv.
Mr. Kauser Husain, Adv.For Respondent(s) Mr. Ajit Pudussery, AOR
Mr. Vijayan K., Adv.
Mr. Ajeet Singh Verma, Adv.UPON hearing the counsel the Court made the following
O R D E R

The appeals are disposed of in terms of the signed order.

Pending application(s), if any, shall also stand disposed
of.(MADHU BALA)
COURT MASTER (SH)
(Signed order is placed on the file)(PARVEEN KUMARI PASRICHA)
BRANCH OFFICER