

Oswal Traders Vs. Union of India (Uoi)

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Court : Guwahati

Decided On : Mar-26-2003

Judge : S.K. Kar, J.

Acts : [Railway Claims Tribunal Act, 1987](#) - Sections 17

Appeal No. : M.F.A. No. 29 of 1999

Appellant : Oswal Traders

Respondent : Union of India (Uoi)

Advocate for Def. : U.K. Nair, Adv.

Advocate for Pet/Ap. : M.P. Barman, Adv.

Disposition : Appeal dismissed

Prior history : S.K. Kar, J. 1. This is an appeal, preferred under Section 23 of the Railway Claims Tribunal Act, 1987, (in short 'RCT'), arising out of Application No. Misc. 9/98 challenging the order dated 3.11.1998 passed by the learned Railway Claims Tribunal, Guwahati, refusing condonation of delay to admit the claim for hearing on merit. 2. The appellant, M/s. Oswal Traders Kalibari Road, Silchar, submitted that a consignment of 180 bags of rice was booked from Kashipur Rly. Station to Silchar under

Judgement :

S.K. Kar, J.

1. This is an appeal, preferred under Section 23 of the [Railway Claims Tribunal Act, 1987](#), (in short 'RCT'), arising out of Application No. Misc. 9/98 challenging the order dated 3.11.1998 passed by the learned Railway Claims Tribunal, Guwahati, refusing condonation of delay to admit the claim for hearing on merit.

2. The appellant, M/s. Oswal Traders Kalibari Road, Silchar, submitted that a consignment of 180 bags of rice was booked from Kashipur Rly. Station to Silchar under invoice No. 137/896761 dated 10.7.1993. The consignment was delivered with a short certificate and there was a short delivery of 3552 Kg. of rice and the claimant preferred a claim of Rs. 24864.00 with the Railways for the loss at the rate of Rs. 700.00 per quintal. And a cheque of Rs. 10614.00, dated 16.10.1997 was accepted by the Claimant under protest requesting for remittance of balance amount.

3. The application was filed on 10.2.1998 with a prayer for condonation of delay of about 1 year 7 months before the Tribunal due to the fact that there was the admitted liabilities by the Railways on 16.10.1997 for issuance of cheque. But without condoning the delay, the learned Tribunal dismissed the claim and hence, this appeal.

4. I have heard both sides and perused the relevant materials in the L.C.R., which was called for in this contexts. In the impugned order, it is seen that, the learned Tribunal picked, up the question of condonation of delay without entering into the merits of the claim and answered the same against the appellant. The appellant tried to argue before the learned Tribunal that as there was an attempt to negotiate the settlement for which he did not prefer the claim within time. If one goes by the provisions of Section 17 of the RCT Act, it will be clear that any claim is to be preferred within 3 (three) years from the date of entrustment of goods, with the Railways and there is a provision in the said Section 17 to the effect that an application may be entertained after the expiry of the period specified in Sub-section (1) if and when, the applicant satisfies the Claims-Tribunal that he had sufficient cause for not making the application within such period. The cause shown for delay in filing the application before the Tribunal was held by the

Tribunal as not sufficient. After going by language and contents of the judgment, I find that the Tribunal has rightly held that an attempt for negotiation of settlement or, making part payment of the claimed amount in due discharge of liabilities are not the matters to be considered as sufficient cause for condonation of delay.

5. Hence, there is no merit in this appeal, which is dismissed.

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