



2025 INSC 533

REPORTABLE

IN THE SUPREME COURT OF INDIA
EXTRAORDINARY APPELLATE JURISDICTION

Petition for Special Leave to Appeal (C) No.9580/2025

JHARKHAND URJA UTPADAN NIGAM LTD. & ANR.

Petitioner(s)

VERSUS

M/S BHARAT HEAVY ELECTRICALS LIMITED

Respondent(s)

O R D E R

1. Exemption Application is allowed.
2. This petition arises from the judgment and order passed by the High court of Jharkhand at Ranchi dated 14.02.2025 in Commercial Appeal No. 1 of 2025 by which the High Court rejected the Interim Application No. 11269 of 2024 filed by the petitioner herein under Section 5 of the Limitation Act, 1963 and thereby declined to condone the delay of 301 days in filing the main appeal under Section 13(1-A) of the Commercial Courts Act, 2015 for short, the "Act, 2015".
3. It appears from the materials on record that the respondent herein M/s. Bharat Heavy Electricals Limited, a Central Government Company, instituted a civil suit against the petitioners herein for recovery of Rs. 26,59,34,854/- with interest at the rate of 15.75 per cent per annum calculated quarterly till realization from 12.11.2014 on the basis of the award passed by the MSME Council Kanpur.
4. In filing the statutory appeal, there was a delay of 301 days as noted above. In such circumstances, the petitioners herein prayed for condonation of delay. The High Court declined to condone the delay on the ground that no sufficient cause was assigned by the petitioners for the purpose of condonation of delay.

5. Mr. Saurabh Kripal, the learned Senior counsel along with Mr. Zain A. Khan, the learned counsel appearing for the petitioners put forward before us two submissions for our consideration:

(i) According to him the High Court committed a serious error in dismissing the commercial appeal on the ground of limitation without considering the true purport of the provisions of Order XX Rule 1 CPC inserted specially for the commercial courts.

(ii) The High Court failed to take into consideration an important question of law that the pronouncement of the judgment in the open court in accordance with the amended provisions of Order XX Rule 1 CPC cannot be the starting point of limitation unless a free copy of the judgment is provided to the parties in the manner provided under Order XX Rule 1 CPC. In other words, according to the learned counsel, Order XX Rule 1 CPC should be construed as mandatory and not directory in so far as providing a copy of the order.

6. In support of the aforesaid two submissions, Mr. Kripal placed reliance on two judgments of this Court (i) *Housing Board, Haryana v. Housing Board Colony Welfare Association and Others* reported in (1995) 5 SCC 672 and (ii) *Sagufa Ahmed and Others. v. Upper Assam Polywood Products Private Limited and Others* reported in (2021) 2 SCC 317.

7. Before we proceed to consider the two submissions canvassed on behalf of the petitioners as noted above, we must look into few provisions of the Act, 2015:

(i) The objective of Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015 (the Principal Act) was speedy resolution of commercial disputes. The "Commercial disputes" have been defined with an inclusive definition and it covers almost all disputes arising out of the commercial activities. The Act provides for a Schedule which amends certain provisions of CPC. These provisions are applicable to Commercial Disputes of Specified Value. The Act has clarified that the provisions of the CPC as amended by the Act would have an overriding effect over any rules of the High Court, or the amendments to the CPC made by a State Government.

(ii) Section 16 of the Act, 2015 reads thus:

"16. Amendments to the Code of Civil Procedure, 1908 in its application to commercial disputes.—(1) The provisions of the Code of Civil Procedure, 1908 (5 of 1908) shall, in their application to any suit in respect of a commercial dispute of a Specified Value, stand amended in the manner as specified in the Schedule. (2) The Commercial Division and Commercial Court shall follow the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, in the trial of a suit in respect of a commercial dispute of a Specified Value. (3) Where any provision of any Rule of the jurisdictional High Court or any amendment to the Code of Civil Procedure, 1908 (5 of 1908), by the State Government is in conflict with the provisions of the Code of Civil Procedure, 1908 (5 of 1908), as amended by this Act, the provisions of the Code of Civil Procedure as amended by this Act shall prevail."

(iii) Section 13 of the Act, 2015 provides for appeals. The same reads thus:

"13. Appeals from decrees of Commercial Courts and Commercial Divisions.—(1) Any person aggrieved by the judgment or order of a Commercial Court below the level of a District Judge may appeal to the Commercial Appellate Court within a period of sixty days from the date of judgment or order. (1A) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under Order XLIII of the Code of Civil Procedure, 1908 (5 of 1908) as amended by this Act and section 37 of the Arbitration and Conciliation Act, 1996 (26 of 1996)

(2) Notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the provisions of this Act."

8. We must now look into Order XX Rule 1 of the CPC:

"1. Judgment when pronounced.—

(1) The Court, after the case has been heard, shall pronounce judgment in an open Court, either at once, or as soon thereafter as may be practicable and when the

judgment is to be pronounced on some future day, the Court shall fix a day for that purpose, of which due notice shall be given to the parties or their pleaders:

Provided that where the judgment is not pronounced at once, every endeavour shall be made by the Court to pronounce the judgment within thirty days from the date on which the hearing of the case was concluded but, where it is not practicable so to do on the ground of the exceptional and extraordinary circumstances of the case, the Court shall fix a future day for the pronouncement of the judgment, and such day shall not ordinarily be a day beyond sixty days from the date on which the hearing of the case was concluded, and due notice of the day so fixed shall be given to the parties or their pleaders.

(1) The Commercial Court, Commercial Division, or Commercial Appellate Division, as the case may be, shall, within ninety days of the conclusion of arguments, pronounce judgment and copies thereof shall be issued to all the parties to the dispute through electronic mail or otherwise.

(2) Where a written judgment is to be pronounced, it shall be sufficient if the findings of the Court on each issue and the final order passed in the case are read out and it shall not be necessary for the Court to read out the whole judgment.

(3) The judgment may be pronounced by dictation in open Court to a shorthand writer if the Judge is specially empowered by the High Court in this behalf: Provided that, where the judgment is pronounced by dictation in open Court, the transcript of the judgment so pronounced shall, after making such correction therein as may be necessary, be signed by the judge, bear the date on which it was pronounced, and form a part of the record."

9. We need to interpret the expression "pronounced judgment and copies thereof shall be issued to all the parties to the dispute through electronic material or otherwise". The argument canvassed on behalf of the petitioners is that the aforesaid expression should be construed as mandatory and not directory. In other words, the argument is that the period of limitation would start only after the copy of the judgment is provided to the party concerned through any one of the modes as provided in law.

10. We are afraid it is difficult for us to take the view that the provision referred to above is mandatory. It comes to this that

till the Registry does not provide the copy of the judgment, though not demanded, the period of limitation would not commence from the date of the pronouncement of the judgment.

11. Placing reliance on the decision of *Housing Board, Haryana (supra)* it has been contended by the appellants herein that where the rules themselves enjoin a duty of communicating any order or judgment that has been passed by a court or forum, then in such cases, the period of limitation prescribed has to be computed from the date of such communication.

12. In *Housing Board, Haryana (supra)*, the facts germane for our consideration are that three appeals were filed before the State consumer commission by the appellants therein. The State consumer commission dismissed all the three appeals on the ground that those were barred by limitation. In appeal before this court, the appellant therein contended that the delay in filing those appeals was on account of the non-availability of the certified copy of the decision rendered by the District Forum which was sought to be challenged. The appellant therein contended that as per Rule 4(10) of the Haryana Consumer Protection Rules, 1988 all orders of the District Forum are required to be signed and communicated to the parties free of charge. However, since the order in question after being pronounced could not be signed due to non-availability of the President of the District Forum the certified copy of the order could not be provided in time. In such circumstances, this Court held that the period of limitation would begin to run only from the date on which the copies of the order were made available. The relevant observations read as under: -

"13. In the present case as laid before the State Commission the appellant contended that the order was pronounced by the District Forum in the open court on 22-10-1992, it was not signed and dated as the President had proceeded on leave soon thereafter and therefore, neither the reasons on which the said order was based were known nor a copy thereof was furnished to the appellant-Board so as to know the reasons and contents of the order. It was also the case of the appellant that on an enquiry by the counsel for the appellant-Board he

was informed by the stenographer of the President that the order would be dictated and typed after the return of the President and that the copy would be made available to the parties only on 30-10-1992 under the signature of the President and the copy was in fact made available to the counsel for the appellant only on 3-11-1992. It may be pointed out that Shri Tirath Singh, learned counsel appearing for the appellant-Board before the National Commission had filed his own affidavit affirming these facts which have not been controverted by the respondents. On the contrary the reply filed in this Court by Shri K.C. Chug, President, Housing Board Colony Welfare Association, Kurukshetra on behalf of the respondents has admitted that "in the present case free copies were ready with the office on 30-10-1992 which were collected by the counsel for the answering respondent on 30-10-1992 whereas the counsel for the petitioner got the same on 3-11-1992". From these facts it is abundantly clear that the copies were duly signed and dated by the members of the forum on 30-10-1992. That being so the period of limitation in view of the above discussion will commence from the date on which the copies of the order were ready and made available i.e. 30-10-1992. In the present case the appeals were filed before the State Commission on 30-11-1992 and since 29-11-1992 was Sunday, the appeals were prima facie within time. In these facts and circumstances there was no question of making any application for condonation of delay in filing the appeals as there was no delay at all."

13. Although in *Housing Board, Haryana (supra)* this Court had held that where the provisions enjoin a duty of communicating any order or judgment that has been pronounced, the limitation for challenging the same would begin from the date of such communication, yet the aforesaid observations cannot be construed devoid of the context in which they were made. A close reading of the decision would indicate that in the said case, after the pronouncement of the order, the appellants therein had made active efforts for procuring the said order, and this is evident from the fact that few days after the pronouncement, the counsel of the appellants therein had made inquires as regards the unavailability of the order in response to which he was informed that the order was yet to be signed.

14. Thus, when this Court in *Housing Board, Haryana (supra)* held that the limitation for challenging the same would begin from the

date of such communication, the same would be applicable only where despite best of efforts at the end of the parties in procuring the order the same could not be obtained and thereby resulting in unavoidable delay in the filing of appeals. One of the core tenets of the law of limitation is to enthrone diligence amongst parties as to their rights. The law of limitation cannot be read in such a manner whereby parties stop showing any modicum of regard for their own rights and on the pre-text of untimely communication continue to litigate without being vigilante themselves.

15. Similarly, we find that the reliance by the appellants on the decision of *Sagufa Ahmed (supra)* is also misplaced. In the said case, this Court while considering Section 421 sub-section (3) of the Companies Act, 2013 held that the period of limitation prescribed therein would start running only from the date on which a copy of the order is made available to the person aggrieved. However, yet again in the said case, the appellants therein had made some efforts to procure a certified copy of the order to be assailed during the period of limitation.

16. In the present case we find that after the order in question came to be pronounced by the Commercial Court, Ranchi, the appellants herein during the limitation period did not bother to even inquire as to why the said order was not available. It was only eight-months after the pronouncement of the said order and almost 150-days after the expiry of the limitation period, that the realization suddenly dawned upon the appellants herein to apply for the certified copy.

17. One of the avowed objects of the provisions of the Commercial Courts Act read with amended provisions of CPC applicable to the Commercial Courts is to ensure that there is no unnecessary delay in disposal of the commercial suit. Once specific time lines are fixed and there is a strict procedure provided in terms of the Commercial Courts Act, parties are by the statute put to notice that they have to very carefully contest the suits filed as commercial suits and that failing to comply with statutory

timelines and a strict procedure, certain adverse consequences may flow on account of lack of application by a contesting party.

18. Thus, merely because Order XX Rule I enjoins a duty upon the commercial courts to provide the copies of the judgment that does not mean that the parties can shirk away all responsibility of endeavoring to procure the certified copies thereof in their own capacity. Any such interpretation would result in frustrating the very fundamental cannons of law of limitation and the salutary purpose of the Act, 2015 of ensuring timely disposals.

19. At this stage, we must look into some of the relevant findings recorded by the High Court. The High Court, in para 18 of its judgment, framed the following question for its consideration. Para 18 reads thus:

"18. The question for consideration is:

"whether the applicants herein can plead that the period of limitation for filing the appeal to Commercial Appellate Division of this Court did not commence at all because the certified copy of the judgment had not been issued to the applicants by the Commercial Courts?"

20. The High Court, thereafter, proceeded to answer the aforesaid question as under:

"19. In order to answer this question, we cannot lose sight of the whole purpose of enactment of the Commercial Courts Act, 2015 i.e., to provide for speedy disposal of high value commercial dispute.

20. No doubt there was a similar provision in Haryana Consumer Protection Rules, 1988 framed under the Consumer Protection Act, 1986 which was considered by the Supreme Court in the case of Housing Board, Haryana (1 supra).

The said provision in the Haryana Consumer Protection Rules, 1988 also provided for communication of the order of the District forum to the parties free of charge in order to avoid the delay as well as to save the parties from the burden of expenses that may be incurred for obtaining the certified copy.

The Supreme Court held that the scheme of the Consumer Protection Act was to provide for better protection of the interest of the consumers as a measure for economical and speedy remedy for the settlement of the dispute and the matters connected therewith and therefore, the said rule should be understood in a manner so that it would protect the interest of the parties before the District forum by making it obligatory on the District forum to provide a copy of the order duly signed and dated by the members of the Bench; and the period of limitation prescribed with regard to filing of an appeal under Section 15 of the said Act therefore, has to be computed as commencing from the date of communication of the order in the manner laid down in the rules.

It was in that context that it was Held that mere pronouncement of an order in the open Conn would not be enough, but under the scheme of the rules copy of the said judgment has to be communicated to the parties affected by the said order so that the parties adversely affected therefrom may have a fair and reasonable opportunity of knowing the text, reasons and contents thereof so as to formulate grounds of attack before the appellate or before the higher forums. In absence of such communication of signed and dated order, it was held that the parties adversely affected by it will have no means of knowing the contents of the order so to challenge the same and get it set aside by the appellate authority or by the higher forums.

21. Normally petitioners before the District forums under the Consumer Protection Act, 1986 are individuals and not corporate entities like the appellant/instrumentality of the State. So, there is justification for taking the view as regards petitioners in District forums that the provisions in the Haryana Consumer Protection Rules, 1988 which mandated communication of the order of the said forums to the parties free of charge was to save the parties from the burden of expenses that may be incurred for obtaining the certified copy.

22. We are afraid that the logic behind the provision contained in Haryana Consumer Protection Rules, 1988 framed under the Consumer Protection Act, 1986 cannot be applied to the litigants before the Commercial Court. For Commercial entities and in particular litigants like the applicants herein who are the State Government Undertakings, the expenses of obtaining a certified copy of a judgment of the Commercial Court would be very small compared to the stakes involves in the litigation.

23. Therefore, they cannot be put on the same footing as

a petitioner before the District Consumer forum; and the logic of counting the period of limitation from the date of communication of the order of consumer forum, cannot be applied to a Commercial dispute to which Commercial entities are parties.

24. In our opinion. Order XX Rule 1 CPC as amended and made applicable to the Commercial Courts is to be treated as only directory and not mandatory. So notwithstanding the provision contained in the amended Order XX Rule 1 CPC (mandating issuance of copies to the parties to the dispute through electronic mail or otherwise), if such copies are not issued within a reasonable time, the parties to the dispute have to apply for the same, and after obtaining it, prefer an appeal within the time prescribed in Section 13(1-A) of the Commercial Courts Act, 2015.

25. This is because the speedy resolution of high value commercial dispute cannot be lost sight of. Such an interpretation would be in tune with the scheme and object of the Commercial Courts Act, 2015 and any interpretation of the nature advanced by the counsel for the applicants would defeat the whole purpose of the object of the Commercial Courts Act, 2015 to provide for speedy disposal of high value commercial disputes.

26. Therefore, we reject the contention of the counsel for the applicants that the period of limitation for filing the appeal to the Commercial Appellate Division of the High Court would not commence unless the judgment of the Commercial Court in the Commercial suit was communicated by the said Commercial Court to the parties.

27. We shall next consider whether the delay of 301 days in filing this Commercial Appeal can be condoned in exercise of power conferred on this Court under Section 5 of the Limitation Act, 1963.

28. The extent of applicability of Section 5 of the Limitation Act, 1963 to cases falling under the Commercial Courts Act, 2015 fell for consideration of the Supreme Court in Government of Maharashtra (2 supra).

29. The Supreme Court in Para 19 of its judgment in Government of Maharashtra (2 supra) discussed the statement of objects and reasons behind enacting of the Commercial Courts Act, 2015 and held that period of limitation must always to some extent be arbitrary and may result in some hardship, but this is no reason as to why they should not be strictly followed.

In para 32, it held that the condonation of delay under

Section 5 of the Limitation Act, 1963 has to be seen in the context of the object of speedy resolution of the dispute.

In para 58, the Supreme Court held that given the object sought to be achieved under the Commercial Courts Act, 2015 i.e., the speedy resolution of the disputes, expression "sufficient cause" in Section 5 of the Limitation Act, 1963 is not elastic enough to cover long delays beyond the period provided by the appeal provision itself; and that the expression "sufficient cause" is not itself a loose panacea for the ill of pressing negligent and stale claims.

In other words, the Supreme Court indicated that in exercise of power under Section 5 of the Limitation Act, 1963 a delay beyond the period of 60 days from the date on which the appeal could have been filed can be condoned (i.e., below 120 days from the date of pronouncement of the judgment) by invoking Section 5 of the Limitation Act, 1963, but where there is negligence, inaction or lack of bona fides, such power ought not to be exercised.

It went further in para 59 by observing that merely because the Government is involved, a different yardstick for condonation of delay cannot be laid down. (This rule would thus apply equally to instrumentalities of Government like the applicants herein).

It held in para 62 that merely because sufficient cause has been made out in the facts of a given case, there is no right in the applicants or the appellants to have the delay condoned.

It concluded in para 63 as under:

"63. Given the aforesaid and the object of speedy disposal sought to be achieved both under the Arbitration An and the Commercial Courts Act, for appeals pled under section 37 of the Arbitration Act that are governed by Articles 116 and 117 of the Limitation Act or Section 13(1-A)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, he 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."

(emphasis supplied)

30. Thus, the Supreme Court in Government of Maharashtra

(2 supra) permitted condonation of delay beyond 60 days in a case falling under the Commercial Courts Act only by way of exception and not by way of rule. If the applicants for condonation of delay had not acted bona fide and had acted in a negligent manner as in the instant case, the delay is not liable to be condoned.

31. In the instant case, the delay in filing the appeal is 301 days - way beyond 60 days + 60 days = 120 days permitted by the judgment of the Supreme Court to be condoned in exercise of power under Section 5 of the Limitation Act, 1963. Therefore, such inordinate delay caused by negligence of the applicants is not liable to be condoned.

32. We may also point out that the applicants were represented before the Commercial Court, Ranchi by counsel and the judgment was obviously pronounced in the presence of the counsel.

Though the order was pronounced on 09.10.2023 it appears that the application for issuance of certified copy was made on 30.08.2024, it was made ready on 07.09.2024, and the appeal was filed on 04.10.2024.

If the Commercial Court had not communicated the copy of its judgment to the applicants within the reasonable time, it was incumbent on the part of the counsel for the applicants or the employees in the Legal Department of the applicants to apply for issuance of certified copy from the Commercial Court, but they have failed in their duty to apply for it when they did not receive it within a reasonable time.

Their negligence resulted in the inordinate delay of 301 days in filing this appeal.

33. The applicants cannot blame the respondent for not communicating to them about the disposal of the appeal and for not making any demand of payment in terms of the decree of the Commercial Court.

34. They also cannot take advantage of the negligence of the counsel engaged by them in not informing the applicants about the judgment of the Commercial Court. This is because the applicants have a Legal Department and employees engaged by the applicants in that department have a duty to monitor what is happening in the cases to which the applicants are parties, keep track of the progress of the said cases and the decisions therein, and ensure that applications for issuance of certified copy are made to the concerned court so that the appeals, if required, can be preferred within the period of limitation prescribed by law."

21. We are in complete agreement with the line of reasoning assigned by the High Court.

22. In the result, this petition fails and is hereby dismissed.

23. Pending application(s), if any, shall stand disposed of.

.....J.
(J.B. PARDIWALA)

.....J.
(R. MAHADEVAN)

NEW DELHI.
15 APRIL, 2025.