

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.                      OF 2022  
(@SLP(C) No. 11225 OF 2022)

M/S LAXMI SRINIVASA R AND P BOILED                      . . . . . APPELLANT (S)  
RICE MILL

VERSUS

THE STATE OF ANDHRA PRADESH & ANR.                      . . . . . RESPONDENT(S)

O R D E R

Leave granted.

The impugned order passed by the High Court affirming the order dated 27.04.2018 passed by Appellate Deputy Commissioner (CT) (FAC), Vijayawada, holding that the delay is beyond condonable period is unsustainable in law.

It is an accepted position that the appellant had filed a writ petition before the High Court on 24.02.2018, which was not entertained *vide* the order dated 07.03.2018 on the ground that the appellant should approach the Appellate Authority. The appellant is entitled to ask for exclusion of the said period in terms of Section 14 of the Limitation Act, 1963. Exclusion of time is different, and cannot be equated with condonation of delay. The period once excluded, cannot be counted for the purpose of computing the period for which delay can be condoned. Of course for exclusion of time under Section 14 of the Limitation Act, 1963, the conditions stipulated in Section 14 have to be satisfied.<sup>1</sup>

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<sup>1</sup> See Consolidated Engineering Enterprises Vs. Principal Secretary, Irrigation Department and Ors., (2008) 7 SCC 169 and Kalpraj Dharamshi and Anr. Vs. Kotak Investment Advisors Limited and Anr.,

In the facts of the present case, we find that the period from the date of filing of the writ petition on 24.02.2018 and the date on which it was dismissed as not entertained viz. 07.03.2018, should have been excluded. The writ proceedings were maintainable, but not entertained. Bona fides of the appellant in filing the writ petition are not challenged. Further, immediately after the dismissal of the writ petition, the appellant did file an appeal before the Appellate Authority. On exclusion of the aforesaid period, the appeal preferred by the appellant would be within the condonable period. Accordingly, we direct that the application for condonation of delay filed by the appellant would be treated as allowed. The delay is directed to be condoned.

Recording the aforesaid, the appeal is allowed with the direction that the Appellant Authority would examine the appeal on merits.

We clarify that have not expressed any opinion on the merit of the case.

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

.....J.  
(SANJIV KHANNA)

.....J.  
(J.K. MAHESHWARI)

NEW DELHI;  
NOVEMBER 14, 2022.

ITEM NO.44

COURT NO.8

SECTION XII-A

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). 11225/2022

(Arising out of impugned final judgment and order dated 29-09-2021 in WP No. 28436/2018 passed by the High Court of Andhra Pradesh at Amravati)

M/S LAXMI SRINIVASA R AND P BOILED RICE MILL                      Petitioner(s)

VERSUS

THE STATE OF ANDHRA PRADESH & ANR.                                      Respondent(s)

Date : 14-11-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA  
HON'BLE MR. JUSTICE J.K. MAHESHWARI

For Petitioner(s)

Mr. Vidya K. Sagar, Adv.  
Mr. Ajit Kumar Jha, Adv.  
Mr. K. S. Rana, AOR

For Respondent(s)

Mr. Mahfooz A. Nazki, AOR  
Mr. Polanki Gowtham, Adv.  
Mr. Shaik Mohamad Haneef, Adv.  
Mr. T. Vijaya Bhaskar Reddy, Adv.  
Mr. K.V.Girish Chowdary, Adv.  
Ms. Rajeswari Mukherjee, Adv.  
Ms. Niti Richhariya, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

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

(BABITA PANDEY)  
COURT MASTER (SH)

(R.S. NARAYANAN)  
COURT MASTER (NSH)

(Singed order is placed on the file)