

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL Nos. 7291-7292 OF 2018

M/S SPARTEK CERAMICS INDIA LTD.

... Appellant(s)

Versus

UNION OF INDIA & ORS.

... Respondent(s)

WITH
CIVIL APPEAL NO. 8247/2018

CIVIL APPEAL NO. OF 2018
(D. NO. 33241/2018)

O R D E R

1) Delay condoned.

2) Having heard learned counsel in all the three appeals before us for some time, and having gone through the judgment dated 28.05.2018 passed by the the National Company Law Appellate Tribunal (NCLAT), we are of the view that the judgment of the NCLAT holding that the appeal filed by the Central Government in that case not maintainable in view of the fact that the Notification dated 24.05.2017 travels beyond the scope of the removal of difficulties provision is correct. We are of the view that, having held that the appeal is not maintainable, the appellate Tribunal should not have adjudicated upon either the limitation aspect of the case or the merits of the particular Scheme before it. Therefore, while upholding the judgment passed by the appellate Tribunal

on the ground that the appeal itself was not maintainable, we set aside the judgment insofar as it purports to deal with the limitation aspect of the case and the merits including the declaration of the Scheme as being illegal.

3) Insofar as Civil Appeal No. 8247 of 2018 and Civil Appeal D. No. 33241/2018 are concerned, it is clear that on the facts in these cases, originally, the appellants had approached the High Court of Delhi in writ petitions. The High Court of Delhi, by judgment dated 22.02.2018 (as modified by order dated 17.04.2018) and 14.09.2017, respectively, ordered the parties to avail of the alternative remedy of filing an appeal before the NCLAT in view of the Notification dated 24.05.2017 which was done by the appellants in these appeals.

4) As the impugned judgment dated 28.05.2018 has set aside this Notification, and which has been upheld by us, the NCLAT, in both these cases, has dismissed the two appeals so filed, following the main judgment of 28.05.2018. This being the case, we revive the two writ petitions that had been before the High Court of Delhi in both the appeals before us with liberty to the appellants to amend the aforesaid writ petitions within a period of four weeks from today.

5) We request the High Court of Delhi to take up the writ petitions at the earliest. It is made clear that pleadings may be completed in both the writ petitions expeditiously, and all points available in fact and law to all parties shall be kept open.

- 6) With these observations, the appeals are disposed of.
- 7) Pending applications shall stand disposed of.

.....J.
(ROHINTON FALI NARIMAN)

.....J.
(NAVIN SINHA)

New Delhi,
Dated: October 25, 2018.

ITEM NO.13

COURT NO.8

SECTION XVII

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No(s). 7291-7292/2018

M/S SPARTEK CERAMICS INDIA LTD.

Appellant(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.104554/2018-STAY APPLICATION)

WITH

C.A. No. 8247/2018 (XVII)

(IA No.114442/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Diary No(s). 33241/2018 (XVII)

(FOR ADMISSION and IA No.136889/2018-CONDONATION OF DELAY IN FILING APPEAL)

Date : 25-10-2018 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ROHINTON FALI NARIMAN
HON'BLE MR. JUSTICE NAVIN SINHA

For Parties:

Mr. P.S. Narsimha, ASG
Mr. Rupesh Kumar, Adv.
Ms. Niranjana Singh, Adv.
Mr. Rohit Rao, Adv.
Mrs. Anil Katiyar, AOR

Mr. Akshat Kumar, AOR

Mr. Amar Dave, Adv.
Mr. Ajay Bhargava, Adv.
Mr. Rajeev Shankar Bhatnagar, Adv.
Mr. Ratnil Chauhan, Adv.
Ms. Meherunnisa Anand, Adv.
M/s. Khaitan & Co., AOR

Mr. Pulkit Deora, Adv.
Ms. Sneha Bharti, Adv.
Ms. Mayuri Raghuvanshi, AOR

Mr. Shyam Divan, Sr. Adv.
Mr. Akshat Kumar, AOR
Mr. Ajay K. Jain, Adv.

Mr. Atanu Mukherjee, Adv.
Mr. Yash Karan Jain, Adv.
Mr. Neeraj Chaudhary, Adv.
Mr. K.K.R. Das, Adv.

Ms. Mayuri Raghuvanshi, AOR

Mr. Sachin Sharma, Adv.
Mr. Arvind Kumar Sharma, AOR

Mr. Deepak Biswas, Adv.
Ms. Sanya Dua, Adv.
Ms. Anannya Ghosh, AOR

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

Delay condoned.

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

Pending applications shall stand disposed of.

(MANAV SHARMA)
COURT MASTER (SH)

(Signed order is placed on the file.)

(TAPAN KUMAR CHAKRABORTY)
BRANCH OFFICER