

Britannia Industries Ltd vs Unknown on 18 September, 2024

Author: Pankaj Purohit

Bench: Pankaj Purohit

SL. No.	Date	Office Notes, reports, orders or proceedings or directions and Registrar's order with Signatures	COURT'S OR JUDGE'S OR
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A0 No.376 of 2024
Hon'ble Pankaj Purohit, J.

Mr. P.R. Mullick, learned counsel for the appellant.

2. Mr. Devendra Pant and Mr. Yogesh Chandra Tiwari, learned Standing Counsel for the State.

3. This is an appeal filed by the appellant under Section 71(6) of the Food Safety and Standards Act, 2006 (hereinafter referred to as "Food Safety Act, 2006") against the judgment and order dated 20.07.2024, passed by Food Safety Appellate Tribunal, Kumaon Division, Haldwani, Nainital in Misc. Appeal No.5 of 2023, Amit Sharma, Factory Manager Britannia Industries Ltd. Vs. Food Safety Officer, Sitarganj, whereby the appeal filed by the appellant against the judgment and order of the Adjudicating Officer dated 09.06.2023 has been rejected as being time barred.

4. It is case of the appellant that the petition was proceeded by the Adjudicating Officer in Adjudication Case No.51/66 of 2022, State of Uttarakhand Vs. Prabodh Kher under the provisions of Food Safety and Standards Act, 2006.

5. The Adjudicating Officer by reason of the aforesaid judgment and order dated 09.06.2023 passed in aforesaid adjudication case has imposed a fine of 1,50,000/- upon the appellant and further directed the appellant to deposit the aforesaid amount within a period of one month in the court of Adjudicating Officer/Additional District Magistrate (Finance and Revenue), Udham Singh Nagar by way of a bank draft.

6. The appellant feeling aggrieved challenged the said order by preferring Misc. Appeal No.5 of 2023. The said appeal was filed by the appellant after the prescribed period of limitation i.e., 30 days as prescribed under Rule 3.3.1 of the Food Safety and Standard Rules, 2011 (hereinafter referred to as "Food Safety Rules, 2011").

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7. Under Rule 3.1 of the Food Safety Rules, 2011, the Appellate Tribunal has power to condone the delay of maximum 30 days.

8. Since the appeal of the appellant was filed beyond 60 days, therefore the appeal was dismissed as time barred.

9. Feeling aggrieved by the aforesaid judgment and order dated 20.07.2024, passed by Food Safety Appellate Tribunal, Kumaon Region, Haldwani (Nainital), appellant is before this Court by filing the present appeal under Section 71(6) of the Food Safety and Standards Act, 2006.

10. It is submitted by learned counsel for the appellant that the Appellate Tribunal has wrongly dismissed the application under Section 5 of the Limitation Act, 1963, which provides that the provision of Limitation Act, 1963 shall apply to an appeal made to a Tribunal except as otherwise provided in Food Safety and Standards Act, 2006.

11. Learned counsel for the appellant submits that the Tribunal has ample power to condone the delay under Section 5 of the Limitation Act, 1963 as it has not been provided under Food Safety Act, 2006.

12. Per contra, learned State counsel has drawn attention of this Court to provision of Rule 3.3.1 of Rules of 2011.

13. It is submitted by learned counsel for the State that the power to enlarge the period of limitation is with the Appellate Tribunal which is only to the extent of 30 days and within all these 60 days, the appeal should have been filed preferred by the appellant after 60 days of the judgment under the appeal.

14. Having considered the submission made by learned counsel for the parties and having perused the judgment impugned in the writ petition and in light of the provision of Rule concerned, this Court is of the opinion that the Appellate Tribunal has got right to enhance the period of limitation only 2024:UHC:6742 for a period of 30 days and therefore the Tribunal was right in dismissing the appeal holding it time barred.

15. It is further submitted by learned counsel for the appellant that the Rules cannot override the said provisions of the Food Safety and Standards Act, 2006 and therefore the judgment impugned is bad in law and contrary to the principle of law and if an interpretation is taken in the matter that the Rules can override the express provision of the law then the provision of Section 76(1) of the Food Safety Act, 2006 would be otiose.

16. So far as argument submitted by learned counsel for the appellant that the Rules cannot override the provision of statutory provisions of the Act is concerned, the argument is bereft of any merit for the reason that the Rules itself provides under the Food Safety Act, 2006, therefore the exception as already provided under Section 71(5) of the Food Safety Act, 2006 and such an interpretation would defeat the provisions of Food Safety Act, 2006.

17. Accordingly, for the aforesaid reasons, this Court does not find any reason to interfere in the appeal and the same is accordingly dismissed.

(Pankaj Purohit, J.) 18.09.2024 SK SHUBHAM Digitally signed by SHUBHAM KAPRUWAN KAPRUWAN DN: c=IN, o=HIGH COURT OF UTTARAKHAND, ou=HIGH COURT OF U T T A R A K H A N D , 2.5.4.20=a29a2f80b93835a432d093afc472d9355959ee0ff878380c645e17d546a24821, p o s t a l C o d e = 2 6 3 0 0 1 , s t = U T T A R A K H A N D , serialNumber=B505B049BA2FDAC35E7AE325DEE1505D6C35AF3D290C229CDC609D61801E1E4F, cn=SHUBHAM KAPRUWAN Date: 2024.09.18 19:27:42 +05'30'