IN THE HIGH COURT OF DELHI AT NEW DELHI
FAO 413/2002 and CM 816/2002
Date of Decision : November 17, 2003
17.11.2003

M/S.CHAUDHARY TRANSPORT and CO. .... Appellant
Through
Mr.R.M. Sinha
Advocate

VERSUS
THE MOTOR GENERAL FINANCE LTD. .... Respondent
AND OTHERS Through
Mr.K.R. Beriwal
Advocate

CORAM:
HON'BLE MR.JUSTICE S.K.MAHAJAN

1. Whether Reporters of local papers may be allowed to see the judgment?

2. To be referred to the Reporter or not ?

3. Whether the judgment should be reported in the Digest ?

S.K.MAHAJAN, J. (ORAL) :

ADMIT.
As the matter is short and only a pure question of law is involved in the case, it has not been deemed necessary to call for the Trial Court file and

This appeal is directed against the judgment of learned Additional District Judge whereby it is held that the provisions of Section 5 of the Limitati
ation Act to set aside the award. Since there was delay in filing the objections and after holding that Section 5 of the Limitation Act does not app
apply to condone delay in filing the application under Sections 30 and 33 of the Arbitration Act, 1940, the learned Additional District Judge has rel
laid down that if objections to the award were not filed within time, the defaulter could not seek condonation of delay under Section 5 of the Limita
as well. According to the judgment relied upon by the learned Additional District Judge it was settled proposition of law that Section 5 of the Limi
be invoked for extending the time for filing objections to set aside award.
I have gone through the judgment of this Court in N.K. Construction Company Ltd. Versus DDA (supra) and in my opinion, the correct provision of la
only against the clear provisions of law laid down in the Limitation Act, but also against the judgments of the Supreme Court. Limitation for filing
Under Article 119 an application for setting aside an award or for remitting the award can be filed within 30 days of the date of the service of noti
than an application under any of the provisions of the Code of Civil Procedure may be admitted after the prescribed period, if the appellant or the a
thin such period. A plain reading of Section 5 of the Limitation Act shows that if any application other than an application under CPC, is filed bey
Court that he had sufficient cause for not filing the application within the period prescribed in the Schedule to the Limitation Act. Since the limi
9 of the Limitation Act, I do not find any reason as to why the provisions of Section 5 of the Limitation Act can not be applied to condone the delay
The matter is otherwise fully covered by the judgment of the Supreme Court in Bharat Coking Coal Ltd. Versus M/S L.K. Ahuja and Co (2001) 2 AD (SC) 2
ion 30 of the Arbitration Act would amount to an application as contemplated under Article 119 of the Schedule to the Limitation Act and, therefore,
cation for condonation of delay in filing objections under Section 30 of the Arbitration Act can thus be filed under Section 5. It was held that S
PC could be admitted after the prescribed period if the applicant satisfied the Court that he had sufficient cause for not preferring the appeal or m
to all applications other than under Order 21 of the CPC and hence, scheme of an enactment cannot be availed of to defeat such a right conferred unde
In view of the aforesaid judgment of the Supreme Court, the judgment of this Court in N.K. Construction Company Ltd. Versus DDA (supra) does not
smissed only on the ground that the same was beyond limitation and Section 5 of the Limitation Act was not applicable to condone the delay in filing
t aside the impugned order and remand the case to the Court of the Additional District Judge with a direction to decide the application of the appell
left to bear their own costs.
Parties are directed to appear before the Trial Court on 19.12.2003.

November 17, 2003 (S.K.MAHAJAN)
`ns' JUDGE