

IN THE HIGH COURT OF ORISSA AT CUTTACK

W.P.(C) No.9168 of 2004

OCL India Limited and another ***Petitioners***

Mr. S.P. Sarangi, Advocate

-versus-

***The Cess Appellate Committee, State
Pollution Control Board, Orissa and
another*** ***Opposite Parties***

Mr. S.P. Mohanty, Advocate

**CORAM:
THE CHIEF JUSTICE
JUSTICE A.K. MOHAPATRA**

**ORDER
03.03.2022**

Order No.

10. 1. The impugned order of the Cess Appellate Committee, State Pollution Control Board, Orissa, Bhubaneswar dated 15th April 2004 dismissing the Petitioners' Water Cess Appeal No.20 of 2000 proceeds on the basis that the said appeal, filed against the assessment order dated 12th September 2000, was time barred.
2. It is asserted in the writ petition that the assessment order dated 12th September 2000 was received by the Petitioners only on 21st September, 2000. On that very date, the Petitioners filed a review petition and thereafter filed the appeal on 11th October, 2000. It was received by the Appellate Authority on 6th November, 2000. In fact, this is admitted by the Opposite Parties in their counter affidavit where it is stated as under:

“In the instant case the due date of filing of appeal was 11.10.2000 and the appeal filed by the petitioner was received by the Board on 06.11.2000”.

3. The 45days time limit has been calculated by the Opposite Parties from the date of the assessment order i.e. 12th September 2000 and not on the date of receipt of such assessment order by the Petitioners which is 21st September, 2000. There is no denial by the Opposite Parties that the Petitioners received the assessment order dated 12th September 2000 only on 21st September, 2000. If the 45 days period for filing the appeal is computed from 21st September 2000, then clearly the appeal received by the Appellate Authority on 6th November 2000 was within time. Since there is no dispute on these facts, the Court sets aside the impugned order dated 15th April 2004 of the Cess Appellate Committee and restores Water Cess Appeal No.20 of 2000 to its file.

4. Although the Act under which the appellate committee functions itself stands repealed, there is a savings clause in the form of Section 6 of the General Clauses Act, 1897 under which all actions taken while the Act was in force will stand saved. In that view of the matter, the Water Cess Appeal No.20 of 2000 will stand revived and will now be disposed of in accordance with law. The writ petition is disposed of in the above terms.

5. An urgent certified copy of this order be issued as per rules.

(Dr. S. Muralidhar)
Chief Justice

(A.K. Mohapatra)
Judge