

THE NATIONAL COMPANY LAW APPELLATE TRIBUNAL
NEW DELHI

Un-numbered Compensation Application (AT) No. /2017

In the matter of:

Crown Theatre

.... Applicant

Versus

Kerala Film Exhibitors Federation

.... Respondent

Appearance: Shri Anant A. Pavgi, Advocate for the Applicant.

17.10.2017

This is an application filed under Section 53N (1) of the Competition Act, 2002 (hereinafter referred to as the Act) claiming compensation.

2. There are no specific pleadings in the application relating to the provision under which limitation has been computed. The only pleading contained in Para-6 of the application is that the present application has been filed within the period of limitation as prescribed under section 53N (1) of the Act. However, section 53N (1) does not refer to the period within which an application for compensation has to be filed. As the dealing hand in the Scrutiny Section was not sure as to whether the application has been filed within the period of limitation, the matter has been placed before me for appropriate orders.

3. Heard the learned counsel for the Applicant. According to him, it is Article 137 of the Limitation Act, 1963 that is applicable and he also relies on the decision reported in (2003) SCC online Del 1988 (M.S. Shoes East Ltd. Vs. M.R.T.P. & Ors.), in which case it was held that where the legislature has not specified any statutory time limit, the claim has to be filed within a reasonable time and three years was held to be a reasonable time to claim compensation.

4. The explanation to section 53N of the Act says that an application for compensation can be made before the Appellate Tribunal only after either the Commission or the Appellate Tribunal on appeal under clause (a) of sub-section (1) of section 53A of the Act, has determined in a proceeding before it that violation of the provisions of the Act has taken place, or if the provisions of section 42A of sub-section (2) of section 53Q of the Act are attracted.

5. Admittedly, the CCI has by order dated 08.09.2015 has held violation of the provisions of section 3 of the Act, which has been affirmed by the erstwhile Competition Appellate Tribunal by order dated 19.04.2016. However, the order dated 19.04.2016 has not reached finality as the Applicant in para-12, page-32 of the application has stated that Civil Appeal No.9726/2016 is pending before the Hon'ble Supreme Court. The application therefore, seems to be premature.

6. Place the matter before the Hon'ble Appellate Tribunal for appropriate orders.

List the matter on 18.10.2017.

(C.S. Sudha)
Registrar