

ITEM NO.58

COURT NO.14

SECTION IV-B

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

Petition(s) for Special Leave to Appeal (C) No(s). 19051-19054/2017

(Arising out of impugned final judgment and order dated 02-09-2016 in FAO No. 6546/2012 02-09-2016 in FAO No. 6547/2012 06-04-2017 in RACR No. 307/2016 06-04-2017 in RACR No. 308/2016 passed by the High Court Of Punjab & Haryana At Chandigarh)

FOOD CORPORATION OF INDIA

Petitioner(s)

VERSUS

M/S. VISHAL ENTERPRISES & ORS.

Respondent(s)

WITH

SLP(C) No. 18986-18987/2017 (IV-B)

(FOR [I/A FOR SETTING ASIDE ABATEMENT U/ORDER 22 RULE 9 R/W ORDER LV OF SCR 2013] ON IA 49527/2018

FOR APPLICATION FOR SUBSTITUTION ON IA 49528/2018

FOR CONDONATION OF DELAY IN FILING SUBSTITUTION APPLN. ON IA 49530/2018)

SLP(C) No. 18989-18990/2017 (IV-B)

SLP(C) No. 18991-18992/2017 (IV-B)

(FOR ADMISSION and I.R.)

SLP(C) No. 18995-18998/2017 (IV-B)

(FOR ADMISSION and I.R. and IA No.51442/2017-CONDONATION OF DELAY IN FILING)

Date : 23-09-2024 These petitions were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE PAMIDIGHANTAM SRI NARASIMHA
HON'BLE MR. JUSTICE SANDEEP MEHTA

For Petitioner(s) Mr. Ajit Pudussery, AOR
Mr. Ashutosh, Adv.
Mr. Ashutosh Bamezai, Adv.

For Respondent(s) Mr. Abhijeet Sinha, AOR

Mr. Himanshu Gupta, Adv.
Mr. Manoj C. Mishra, AOR

Mr. Siddharth Bhatnagar, Sr. Adv.
Mr. Farrukh Rasheed, AOR

Mr. Abhishek Gupta, Adv.
Mr. Udit Kumar, Adv.
Mr. Aditya, Adv.

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

SLP (C) Nos. 19051-19054, 18986-18987, 18989-18990, 18995-18998 of 2017

1. Heard Mr. Ajit Pudussery, learned counsel appearing for the petitioner(s) who has fairly submitted that amounts involved in these SLP's are very small.
2. In this view of the matter, we are not inclined to interfere with the order(s) passed by the High Court and accordingly these Special Leave Petitions are dismissed.
3. Pending application(s) shall also stand dismissed.

SLP (C) Nos. 18991-18992 of 2017

4. Mr. Ajit Pudussery, learned counsel, submits that claims of FCI/petitioner(s) were dismissed, the counter claims were allowed by the Arbitrator. The petitioner's objections under Section 3 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') were dismissed. The Single Judge of the High Court also dismissed the appeal filed by FCI under Section 37 of the Act. Even the review petition was also dismissed. He would, however, submit that there is no justification in allowing the Counter Claim and also that the Storage Charges and Loss of Profit could not have been given. He has also submitted that the counter claim was in fact not maintainable. For these reasons, Mr. Pudussery seeks remand of the matter back to the High Court for reconsideration. On the other

hand, Mr. Bhatnagar, learned senior counsel appearing for the respondent(s), submits that the judgment of the High Court in SLP (C) Nos. 18995-18998 of 2017 (filed by the Respondents) was based on the same reasoning and the judgment of the High court has become final. In that case, FCI's claim was rejected and counter claim of Raj Group of Industries was allowed. The Section 34 application filed by the FCI was allowed. However, while setting aside the said order, the counter claim was restored by the High Court by exercising jurisdiction under Section 37 of the Act. He further submits that the issues which are raised by Mr. Ajit Pudussery are covered by the findings in SLP (C) Nos. 18995-18998 of 2017.

5. Having heard the learned counsel for both the parties, we are of the opinion that no purpose would be served in remanding the SLP (C) Nos. 18991-18992 of 2017. In view of the fact that the agreement is of the year 1995-1996 and the judgment of the High Court is of 02.09.2016 and much time has passed ever since, we see no reason to remand the matter back to the High Court for starting the proceedings all over again. We would however keep the question of law open for being considered in an appropriate case. The Special Leave Petitions are dismissed in terms of the above.

6. Pending application(s), if any, shall stand disposed of.

(KAPIL TANDON)
COURT MASTER (SH)

(NIDHI WASON)
COURT MASTER (NSH)