

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.933 OF 2019

COMMISSIONER OF CUSTOMS, NEW DELHI

Appellant(s)

VERSUS

AIR INDIA LTD.

Respondent(s)

WITH

CIVIL APPEAL No.934/2019

O R D E R

On 03.01.2019, following order was passed by this Court:

"Delay condoned

List in the first week of February 2019.

In the meantime, we direct that a committee consisting of Secretary, Revenue; Commissioner of Customs and Chairman-cum-Managing Director, Air India be constituted which shall look into the matter. We are passing this direction as on one side the Commissioner of Customs is a party, while on the other side there is a Public Sector Undertaking.

The Committee is directed to place on record by 31.01.2019 its finding/observations and recommendations as to how the dispute in the present matter can be sorted out."

In terms of the order, a Committee comprising of (1) Dr. Ajay Bhushan Pandey, Revenue Secretary, Government of India; (2) Mr. Manish Kumar, Commissioner, Customs, IGI Airport; and, (3) Mr.

Pradeep Singh Kharola, Chairman & Managing Director M/s Air India Ltd. was constituted. The Committee had deliberations and the Minutes of its Meeting dated 17.01.2019 have now been placed on record. Paragraphs 6 and 7 of the Minutes are as under:

"6. CMD, Air India stated that financial position of Air India is precarious and Government has already decided to have a revival plan. Thus, in such situation it would not be viable for them to pay the duty for the said period i.e., November, 2010 to June 2012. Commissioner of Customs, Airport explained that there is no provision in the law to waive off the duty except writing off such dues/amount as per law. However, Revenue Secretary stated that as Government is the 100% shareholder of Air India and financial situation of Air India being precarious, writing off the said amount may be considered by the Government. It was, however, felt that such special dispensation in this case should not become a precedence for other pending cases. Accordingly, Committee agreed that while making a recommendation, it shall be clearly spelt out that this recommendation was governed by special circumstances in view of precarious financial condition of Air India and shall not be a precedent in any other case.

7. Accordingly, the Committee decided that as the Air India agrees as regards the applicability of Additional Duty of Customs on the ATF, as adjudged in the adjudication order dated 12.04.2017, the appropriate course of action, in the circumstances of the case, would be that the department would not press for recovery of the said amount around Rs.1.5 crore for the period November 2010 to June 2012 and in due course would process it for write off as a special case, if Court approves the recommendations of the Committee."

Mr. Radhakrishnan, learned senior counsel submits that these Civil Appeals may be disposed of in terms of the aforesaid paragraphs 6 and 7 of the Minutes.

We see force in the submission and dispose of the appeals in aforesaid terms.

.....J.
[UDAY UMESH LALIT]

.....J.
[INDU MALHOTRA]

NEW DELHI;
MARCH 15, 2019

ITEM NO.49

COURT NO.8

SECTION XVII

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.933/2019

COMMISSIONER OF CUSTOMS, NEW DELHI

Appellant(s)

VERSUS

AIR INDIA LTD.

Respondent(s)

(IA No.128500/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; and, IA No.128498/2018-STAY APPLICATION)

WITH

C.A. No.934/2019 (XVII)

(IA No.171300/2018-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT; and, IA No.171299/2018-EX-PARTE STAY)

Date : 15-03-2019 These appeals were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE UDAY UMESH LALIT
HON'BLE MS. JUSTICE INDU MALHOTRA

For Appellant(s) Mr. K. Radhakrishnan, Sr. Adv.
Ms. Sunita Rani Singh, Adv.
Ms. Nisha Bagchi, Adv.
Mr. B. Krishna Prasad, AOR

For Respondent(s) Mr. Manoj Arora, Adv.
Ms. Pallavi, Adv.
Mr. Anil Shrivastav, AOR

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

The Civil Appeals are disposed of, in terms of the signed order.

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

(MUKESH NASA)
COURT MASTER

(SUMAN JAIN)
BRANCH OFFICER

(Signed Order is placed on the File)