

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

MISCELLANEOUS APPLICATION NO.257/2020

(Application for direction)

IN

CIVIL APPEAL NO. 8080/2018

AND

MISCELLANEOUS APPLICATION NO.258/2020

(Application for direction)

IN

CIVIL APPEAL NO. 8081/2018

UNION OF INDIA MINISTRY OF FINANCE
SECRETARY & ORS.

APPELLANT (S)

VERSUS

M/S. MAKE MY TRIP (INDIA) PVT. LTD. ETC. RESPONDENT(S)/APPLICANT(S)

O R D E R

This Court by order dated 23.01.2019 affirmed the judgment of the Division Bench of the Delhi High Court dated 01.09.2016. The Delhi High Court had directed payment of interest on Rs.67,44,19,167/- and Rs.6,50,00,000/- respectively within a period of four weeks @ 6% per annum. The said order was, in fact, stayed by this Court by interim order dated 27.09.2016. The said interim order continued till 23.01.2019. As an interim measure, this Court had also directed that there would be stay of operation of the judgment(s) of Delhi High Court impugned in these matters and also permitted the Department to proceed with the adjudication against the Assessees but no coercive steps were to be taken against the Assessees.

Contd..

This Court also reiterated that in case the Assesseees (respondents in these matters) succeeded, they shall be entitled to refund with interest. Since, the interest amount has not been paid, these Miscellaneous Applications have been filed.

We have heard learned counsel for the applicants/Assesseees and learned Additional Solicitor General for the respondent(s)/Department and perused the material on record.

During the course of submissions, it was brought to our notice that on 27.09.2016, this Court by way of an interim measure stayed the judgment of Delhi High Court dated 01.09.2016. Therefore, learned ASG submitted that for the period from 27.09.2016 till 23.01.2019, the liability to pay interest did not arise at all. In fact, learned ASG submitted that this Court by interim order dated 27.09.2016 permitted the Department to proceed with the adjudication and protected the Assesseees insofar as coercive steps being taken as against them; that the adjudication has resulted in a demand of over Rs.700 crores in respect of one of the Assesseees and the same has been challenged before the Appellate Tribunal. Therefore, at this stage, payment of interest to the Assesseees would not arise at all.

This submission is countered by learned counsel appearing for the Assesseees by contending that the direction of the Delhi High Court, as affirmed by this Court would have to be given effect to inasmuch as the payment of the aforesaid sum was made by the

contd..

Assessees, even in the absence of there being any proceeding in accordance with law. It is in that context that the Division Bench of the Delhi High Court ordered payment of interest in the event the aforesaid amount was not refunded within a period of four weeks from 01.09.2016. Therefore, the submission of learned ASG linking the subsequent adjudication proceedings to the direction to the payment of interest does not hold water.

We have considered the rival contentions and we find that the interim measure and direction issued by this Court on 27.09.2016 in the special leave petitions filed by the Department was to enable the Department to proceed with the adjudication but protecting the Assessees from coercive steps being taken during the process of adjudication provided the Assessees co-operated with the said process. However, this Court in the said order also categorically stated "in case the respondent(s) succeed they shall be entitled to refund with interest"

The aforesaid direction is related to the proceedings pending before this Court inasmuch as the success or otherwise of the Assessee was relateable to the proceedings before this Court and not to any subsequent adjudication which was started by the Department as against the Assessees. In that view of the matter, we find that order dated 27.09.2016 is in conformity with final order dated 01.09.2016 passed by the Division Bench of the High Court, which was ultimately affirmed by the final order of this Court dated 23.01.2019.

contd..

In that view of the matter, the Department is liable to pay interest @ 6% per annum on the aforesaid sum of Rs.67,44,19,167/- and 6,50,00,000/- respectively from 01.10.2016, till the date of realisation. Ordered accordingly.

The Miscellaneous Applications stand allowed and disposed of accordingly.

.....J.
[B.V. NAGARATHNA]

.....J.
[UJJAL BHUYAN]

NEW DELHI;
SEPTEMBER 04, 2023

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

Miscellaneous Application No. 257/2020 in C.A. No. 8080/2018
(Arising out of impugned final judgment and order dated 23-01-2019
in C.A. No. 8080/2018 passed by the Supreme Court Of India)

UNION OF INDIA MINISTRY OF FINANCE SECRETARY & ORS. Appellant(s)

VERSUS

M/S. MAKE MY TRIP (INDIA) PVT. LTD. ETC.

Respondent(s)/
Applicant(s)

(IA No. 178328/2019 - CLARIFICATION/DIRECTION)

WITH

MA 258/2020 in C.A. No. 8081/2018 (XIV-A)
(FOR CLARIFICATION/DIRECTION ON IA 178320/2019
IA No. 178320/2019 - CLARIFICATION/DIRECTION)

Date : 04-09-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MRS. JUSTICE B.V. NAGARATHNA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Parties

Mr. V. Lakshmikumaran, Adv.
Mr. Yogendra Aldak, Adv.
Mr. Kunal Kapoor, Adv.
Mr. Pranav Mundra, Adv.
Ms. Apeksha Mehta, Adv.
Ms. Charanya Lakshmikumaran, AOR

Mr. Balbir Singh, A.S.G.
Mr. Mukesh Kumar Maroria, AOR
Ms. Swarupama Chaturvedi, Adv.
Mr. Harish Pandey, Adv.
Ms. Nisha Bagchi, Adv.
Mr. Rupesh Kumar, Adv.
Mr. Hemant Kumar, Adv.

UPON hearing the counsel the Court made the following

O R D E R

The Miscellaneous Applications stand allowed and disposed
of in terms of the signed order.

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

(NEETU SACHDEVA)
ASTT. REGISTRAR-cum-PS

(MALEKAR NAGARAJ)
COURT MASTER (NSH)

(signed order is placed on the file)

