

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 8168 OF 2015

The Walt Disney Company (India) Pvt Ltd ..Petitioner

Vs.

The Union of India and Others ..Respondents

Mr. Prakash Shah a/w Mr. Jas Sanghavi i/b PDS Legal,for the
Petitioner.

Mr. Pradeep S. Jetly a/w Mr. Rajendra Kumar,for all the
Respondents.

CORAM :- S.C. DHARMADHIKARI &
B.P.COLABAWALLA, JJ.

DATE :- AUGUST 29, 2016.

P. C.:

By this Petition under Article 226 of the Constitution
of India, the Petitioner claims the following two reliefs:-

a): THAT this Hon'ble Court be pleased to declare that the
Petitioner is entitled to duty credit scrip under the SFIS
in respect of the services exported by it and purported
denial thereof violates Article 14 of the Constitution of
India and is invalid;

b): THAT this Hon'ble Court may be pleased to issue a Writ of Certiorari or a Writ in the nature of Certiorari and/or any other appropriate writ, order or direction under Article 226 of the Constitution of India calling for the records and papers of the Petitioner's case and after examining the legality and validity thereof quash and set aside the impugned (i) decision of the PIC recorded in the minutes of meeting dated 27 December 2011; (II) (i) Letter bearing File No. 03/93/071/0010/AM-14 dated 05 September 2013, (ii) Letter bearing File No. 03/93/071/0011/AM-14 dated 05 September 2013 and (III) Order No. 12013/1/2013-ADJ/AC dated 22nd May, 2015 passed by the Respondent No.6.”

2 Our attention has been fairly invited by both sides to the judgment of this Court in the case of Naman Hotels Pvt Ltd v/s Union of India reported in 2015 (326) Excise Law Times 513, to which one of us (S. C. Dharmadhikari, J.) was a party. It is stated that the controversy in the present Petition is fully covered by this judgment of the Division Bench.

3 In view thereof, the Writ Petition is dismissed to the extent indicated in paragraph 40 of this Division Bench judgment. No other issue has been raised and identical to paragraphs 41 and 42 of the Division Bench judgment in Naman Hotels Pvt Ltd

(supra). However, Mr. Shah appearing for the Petitioner, on instructions, states that the Petitioner would be required to refund certain amounts to the department/respondent. There is a bank guarantee which has been issued in favour of the Respondents and that is still in force.

4 Mr. Shah submits that the Petitioners would replace this bank guarantee with cash deposit within a period of four weeks from today. If that is done according to Mr. Shah, then, the bank guarantee should be returned to the Petitioner duly discharged.

5 We do not see how such request and reasonable as it is, would be refused by the Respondents. In any event, we direct that in the event the Petitioner brings the amount to be refunded in cash and deposits it with the Respondents, then, the bank guarantee furnished by the Petitioner shall be returned to them duly discharged and cancelled.

(B. P. COLABAWALLA, J.) (S. C. DHARMADHIKARI, J.)