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IN THE HIGH COURT OF DELHI AT NEW DELHI

18.

W.P.(C) 1926/2016

MILLENNIUM APPLIANCES INDIA LIMITED Petitioner
Through: Mr. T.R. Andhayarujina, Senior
Advocate with Mr. Yashuardhan and Mr.
Devender Singh, Advocates.

versus

COMMISSIONER OF CUSTOMS & ORS Respondents
Through: None.

And

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W.P.(C) 1928/2016

APPLICOMP (INDIA) LIMITED Petitioner
Through: Mr. T.R. Andhayarujina, Senior
Advocate with Mr. Yashuardhan and Mr.
Devender Singh, Advocates.

versus

COMMISSIONER OF CUSTOMS & ORS Respondents
Through: None.

CORAM:
JUSTICE S.MURALIDHAR
JUSTICE VIBHU BAKHRU

ORDER

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04.03.2016

CM APPL 8261/2016 (exemption) in W.P. (C) 1926/2016
CM APPL 8265/2016 (exemption) in W.P. (C) 1928/2016

1. Exemption allowed subject to all just exceptions.
2. The applications are disposed of.

W.P. (C) 1926/2016 & CM APPL 8260/2016 (for stay)
W.P. (C) 1928/2016 & CM APPL 8264/2016 (for stay)

3. These are two writ petitions seeking writ of prohibition to Respondent No. 3, Customs and Central Excise, Settlement Commission, Principal Bench, New Delhi ('Settlement Commission') prohibiting it to continue proceedings or to give opportunity of hearing, leading/submitting evidence and "to work out the matter and continue the proceedings" in the Settlement Cases being Application File No. C-2782-2787/CUS/2015-SC (PB) [*M/s. Millennium Appliances Ltd. & others*] and Application File No. C-2767 -2775/CUS/2015-SC (PM) [*M/s. Applicomp (India) Ltd. and others*]

4. We have heard the submissions of Mr. T.R. Andhayarujina, learned Senior counsel for the Petitioners.

5. The grievance is that the legitimate request for an adjournment to hear the changed counsel for the Petitioners in the aforementioned applications was not acceded to by the Settlement Commission and while only taking on record the written submissions of the Respondents, and without hearing the Petitioners, orders were reserved by the Settlement Commission.

6. Reliance is placed on the decision of the Supreme Court in *S. Govinda Menon v. The Union of India (1967) 2 SCR 566* to urge that a direction be issued to the Settlement Commission restraining it from further proceeding in the said applications in which orders have been reserved till such time it does not give the Petitioners an opportunity of being heard.

7. Mr. Andhayarujina, learned Senior counsel asserts that the Petitioners' have every reason to believe that the orders in the said applications would be adverse to the Petitioners and therefore, the Petitioners seek interference by this Court at this stage itself.

8. In the considered view of this Court, these petitions are pre-mature. With the orders having been reserved in the aforementioned applications, what the decision of the Settlement Commission thereon might be is clearly in the realm of speculation at this stage. The decision in **S. Govinda Menon v. The Union of India** (*supra*) crystallized the settled legal position as to when a writ of prohibition might issue as under:

“The jurisdiction for grant of a writ of *prohibition* is primarily supervisory and the object of that writ is to restrain courts or inferior tribunals from exercising a jurisdiction which they do not possess at all or else to prevent them from exceeding the limits of their jurisdiction. In other words, the object is to confine courts or tribunals of inferior or limited jurisdiction within their bounds. It is well-settled that the writ of prohibition lies not only for excess of jurisdiction or for absence of jurisdiction but the writ also lies in a case of departure from the rules of natural justice.”

9. As far as the present case is concerned, it is not the contention of the Petitioners that the Settlement Commission lacks jurisdiction. They seek to bring their case within the ambit of the expression “departure from the rules of natural justice.” It is not possible for this Court to enquire, at this stage, into whether the Petitioners were denied a hearing by the Settlement Commission as contended by them. Moreover, the question of the Settlement Commission becoming a party to these proceedings to contest such an allegation simply does not arise. More importantly, with orders having been reserved on the aforementioned applications the question of issuing a writ of prohibition to the Settlement Commission at

this stage again does not arise.

10. However, this order should not preclude the Petitioners, if necessity so arises, to urge these very grounds to challenge the orders of the Settlement Commission on the aforementioned applications, if adverse to the Petitioners.

11. With the above observations, the writ petitions are dismissed. The pending applications also stand dismissed.

12. Order be given *dasti*.

S.MURALIDHAR, J

VIBHU BAKHRU, J

MARCH 04, 2016

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