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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 7499/2017 & CM APPLs. 30954-30955/2017**

M/S FOODWORLD

..... Petitioner

Through

Mr. Navin Kumar, Ms. Rasmeet Kaur
and Ms. Akansha Chauhan, Advs.

versus

UNION OF INDIA & ANR

.....Respondents

Through

Mr. Jagjit Singh and Mr. Preet Singh,
Advs.

CORAM:

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

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28.08.2017

According to the petitioner, though, the petitioner was awarded contract for catering services in Train no. 12263/64 Hazrat Nizamuddin-Pune Durronto Express, vide letter of Award dated 31.12.2013 and the license fee under such contract was payable on 'pro rata' basis, as per the policy notification dated 12.3.2013, clarified vide Board's letter dated 4.9.2013, the licence fee was chargeable on the basis of reassessment of sales. It is contended that the policy decision of the respondent has a force of law and is required to be implemented uniformly amongst all similarly placed persons, without, any exception. According to the petitioner, under the similar contract, another licensee M/s Doon's Caterers had made a detailed representation vide letter dated 8.3.2017 to the respondent no.1 for refund of enhanced licence fee charged on pro rata basis and

on his request having been declined, three writ petitions being WP(C) 6183/2017, WP(C) 6205/2017 and WP(C) 6208/2017, all titled **M/s Doons Caterers vs. Union of India & Anr.** had come to be disposed off with the directions to the respondents that they shall treat the said petition as a representation of the petitioner. Order passed in the similar writ petition in WP(C) 6183/2017 is, as under :

“According to the petitioner, though, the petitioner was awarded contract for catering services in Train no. 12425-12426, New Delhi – Jammu Tawi Rajdhani Express, vide letter of Award dated 20.12.2013 and the license fee under such contract was payable on ‘pro rata’ basis, as per the policy notification dated 12.3.2013, clarified vide Board’s letter dated 4.9.2013, the licence fee was chargeable on the basis of reassessment of sales. Ld. counsel for the petitioner strenuously contends that the policy decision of the respondent has a force of law and is required to be implemented uniformly amongst all similarly placed persons, without, any exception. In its representation dated 08.03.2017, the petitioner, *inter alia* stated, as under:-

“Considerable time passed but & only verbal assurances were given to us in every meeting by the NR Authorities that issue is pending with Railway Board & clarifications are awaited, in due course second instalment of advance license fees of Rs.4,02,72,320/= got due on 21st January 2016 which was also deposited by us vide DD No 980625. Sir almost 3 years have passed & we on good faith & assurances of the Railways Administration has deposited considerable additional amount of Rs. 2,61,44,460/= in 2 advance instalments on account of enhanced license fees & Rs. 4,21,957/= as interest on delayed payment of enhanced license fees, whereas other licenses have taken a legal recourse to the enhancements & have got interim relief through arbitration in regard to non submission of the enhanced portion of License Fees which has been kept on hold, further the said arbitration decision was challenged by the Northern Railway

Administration in Honorable High Court of Delhi in which the court had communicated the ruling against Northern Railway.

Said representation is shown to have been declined by the respondent vide its communication No. 13-AC/12029-30/31-32/2013 dated 27.04.2017, stating, as under:-

“In reference to above, it is to inform that the Decision of Hon’ble High Court in subject matter is confined to train managed by M/s Satyam caterers, M/s Brandavan Food products & M/s R.K. Associates & Hoteliers only.

This is for your information please.

**For Chief Commercial
Manager/Catering”**

The rejection of the representation of the petition with such cryptic response, which does not deal with the diverse pleas/contentions raised by the petitioner, by no means is justifiable. Mr. Jagjit Singh, Ld. counsel for the respondent on his part submits that the instant petition can be treated as a representation to be decided in a time bound manner.

Keeping in view the totality of the facts and circumstances, the petition is disposed off with a direction that the respondents shall treat the present petition as a representation of the petitioner and be decided by the competent authority within a period of eight weeks from today, by a speaking order, having awarded an opportunity of hearing to the petitioner. Petition and all pending applications stand disposed off accordingly.”

Mr. Jagjit Singh, Ld. counsel for the respondents concedes that the case of the petitioner is akin to the case of M/s Doon Catrers and that, the instant petition of the petitioner can also be treated as a representation to be decided in a time bound manner.

Keeping in view the totality of the facts and circumstances, the petition is disposed off with a similar direction that the respondents shall treat the present petition as a representation of the petitioner and be decided by the competent authority within a period of eight weeks

from today, by a speaking order, having awarded an opportunity of hearing to the petitioner. Petition and all pending applications stand disposed off accordingly.

A. K. CHAWLA, J

AUGUST 28, 2017

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