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

+ **W.P.(C) 836/2018 and CM No. 3568/2018**

INTERTEK INDIA PVT. LTD. THROUGH ITS
PROCUREMENT HEAD MR. DHEERAJ
MANCHANDA

..... Petitioner

Through: Mr Tarun Gulati, Mr Nikhil Gupta,
Mr Sparsh Bhargava, Mr Vipin
Upadhyay and Mr Vasu Nigam,
Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Ms Maninder Acharya, ASG with Mr
Kirtiman Singh, CGSC and Mr
Sarfaraz Ahmad, Advocates.

AND

+ **W.P.(C) 387/2018**

M/S KPMG

..... Petitioner

Through: Mr Sujit Ghosh, Mr Krishna Rao and
Mr Harsh Makhija, Advocates.

versus

UNION OF INDIA & ORS

..... Respondent

Through: Ms Maninder Acharya, ASG with Mr
Anurag Ahluwalia, CGSC with Ms
Tejaswita, Mr Sahil Sood, Mr Harshul
Choudhary, Mr Viplav Acharya and
Mr Rakesh, Advocates and Mr Vinod
Tiwari, Advocate (GP).

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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28.05.2018

1. Ms Maninder Acharya, learned ASG states that she has instructions that the respondents shall withdraw the recovery notices, impugned in these petitions, to await the judgment of the Supreme Court in ***M/s Cummins Technologies India Pvt. Ltd. v. Union of India and Ors.: SLP(C) No. 28830/2017***. She states that as the question whether the SFIS Scheme would apply to Indian companies selling their services under allegedly foreign brands is a subject matter of consideration before the Supreme Court.

2. The learned counsel appearing for the petitioners state that apart from the aforesaid issue, there are other serious objections to recovery notices including that Policy Interpretation Committee (PIC) did not have any jurisdiction to take any policy decision prior to 2012. They further state that the recovery notices, impugned in these petitions, are barred by limitation and the respondents do not have any recourse to Section 16 of the Foreign Trade (Development and Regulation) Act, 1992. This Court does not consider it necessary to address these issues as all the contentions, including one as articulated by the learned counsel for the petitioners, would be available to the petitioners as and when any steps are taken by the respondents for recovering any amount, which is subject matter of disputes in the present petitions.

3. The withdrawal of recovery notices are without prejudice to rights and contentions of the respondents including the right to issue a fresh recovery notices, if any. It is made expressly clear that this Court has not expressed any opinion on whether the respondents have any such right to issue the recovery notices.

4. Since the recovery notices are withdrawn, the present petitions do not survive and are disposed of with liberty to the petitioner to revive the same, if the occasion so arises. The pending application stands disposed of.

5. Order *dasti*.

VIBHU BAKHRU, J

MAY 28, 2018
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