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\$~329, 330, 331, 332, 336 & 447

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

+ **W.P.(C) 522/2018 and CM No. 2234/2018**

HLS ASIA LIMITED & ANR

..... Petitioners

Through: Mr Amit Gupta and Ms Vidhi Goel,
Advocates.

versus

UNION OF INDIA & ANR

..... Respondents

Through: Mr Anurag Ahluwalia, CGSC with
Ms Tejaswita, Advocate for UOI.

WITH

+ **W.P.(C) 902/2018 and CM No. 3807/2018**

HOTEL EXCELSIOR LIMITED

..... Petitioner

Through: Ms Malini Sud, Mr Vikas Mishra, Mr
Shubhankar Sen Gupta and Mr
Shashwat Tripathi, Advocates.

versus

DIRECTOR GENERAL OF FOREIGN

TRADE & ORS

..... Respondents

Through: Mr Anurag Ahluwalia, CGSC with
Ms Tejaswita and Mr Brajesh Kumar,
Advocate for UOI.

WITH

+ **W.P.(C) 1026/2018 and CM No. 4309/2018**

EROS RESORTS AND HOTELS PRIVAT
LIMITED (PREVIOUSLY KNOWN AS EROS
RESORTS AND HOTELS LIMITED)

..... Petitioner

Through: Ms Malini Sud, Mr Vikas Mishra, Mr
Shubhankar Sen Gupta and Mr
Shashwat Tripathi, Advocates.

versus

DIRECTOR GENERAL OF FOREIGN

TRADE AND ORS.

..... Respondents

Through: Counsel (appearance not given).

WITH

+ **W.P.(C) 1936/2018 and CM No. 8042/2018**

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ABERCROMBLE & KENT INDIA PVT LTD Petitioner

Through: Mr Rishabh Jetley, Advocate.

versus

DIRECTOR GENERAL OF FOREIGN
TRADE & ORS

..... Respondents

Through: Mr Ravi Prakash, CGSC with Mr
Farman Ali and Mr Brajesh Kumar,
Advocates.

WITH

+ W.P.(C) 5114/2018 and CM No. 19763/2018

M/S MAGUNM VENTURES LTD.

..... Petitioner

Through: Mr Priyadarshi Manish, Ms Anjali J.
Manish and Ms Nidhi Saini,
Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Mr Kirtiman Singh, CGSC for UOI.

AND

+ W.P.(C) 12124/2018 and CM Nos. 47078/2018 & 47079/2018

SANYA HOSPITALITY PRIVATE LIMITED

..... Petitioner

Through: Ms Malini Sud, Mr Vikas Mishra, Mr
Shubhankar Sen Gupta and Mr
Shashwat Tripathi, Advocates.

versus

DIRECTOR GENERAL OF FOREIGN TRADE
AND ORS.

..... Respondents

Through: Mr Ravi Prakash, CGSC with Mr
Farman Ali and Mr Varun Pathak,
Advocates for R-1 to 3.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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14.11.2018

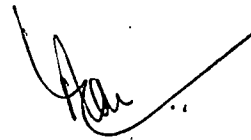


1. The learned counsel appearing for the respondents state that they have instructions that the respondents shall withdraw the recovery notices, impugned in these petitions, to await the judgment of the Supreme Court in *M/s Cummins Technologies India Pvt. Ltd. v. Union of India and Ors.: SLP(C) No. 28830/2017*. He states that 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 petitioners to revive the same, if the occasion so arises. The pending application stands disposed of.
5. Order *dasti*.



VIBHU BAKHRU, J

NOVEMBER 14, 2018
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