

HON'BLE SRI JUSTICE A.RAJASHEKER REDDY

WRIT PETITION Nos.22474 of 2014 & 27390 of 2015

COMMON ORDER:

Since the issue involved in both these writ petitions is one and the same, they are being heard together and disposed of by way of this Common Order.

WP No.22474 of 2014

This Writ Petition is filed assailing the order of the 3rd respondent vide order No.38/2013-14, dated 24.02.2014 as illegal and arbitrary and for consequential directions.

WP No.27390 of 2015

This Writ Petition is filed with the following prayer:

“ It is therefore, prayed that this Hon’ble Court may be pleased to issue a writ, order and more particularly in the nature of ‘Mandamus’;

- (i) Declaring that in view of the policy directive dated 10.06.2015 issued by the Central Government under Section 42(2) of AERA Act, 2008, the order No.38/2013-14, dated 24.02.2014 made by the 2nd respondent is rendered inoperative and non-implementable; and*
- (ii) Further declare that the petitioner is entitled to collect tariffs/Airport Charges in the same manner as done prior to the 2nd respondent’s order dated 24.02.2014; and*
- (iii) Consequently to direct the 2nd respondent to re-determine the tariff in accordance with the policy directive dated 10.06.2015 issued by the 1st respondent within a stipulated time.*

Heard Sri S.Niranjan Reddy, learned Senior Counsel for the petitioners, learned Assistant Solicitor General for respondents 1 & 2 and Sri R.Raghunandan Rao, learned Senior Counsel

appearing for implead petitioner in WPMP No.7944 of 2016 in WP No.27390 of 2015.

Sri S.Niranjana Reddy, learned Senior Counsel for the petitioner submits that though Appeal No.2 of 2014 is filed against the impugned order passed by the Airports Economic Regulatory Authority of India-3rd respondent dated 24.02.2014, but due to the vacancy that had arisen in the composition of the said Appellate Authority-1st respondent, the same could not be taken up, as such, petitioner was constrained to file the present writ petition.

It is informed by the learned counsel for the parties that the powers of the 1st respondent-Airports Economic Regulatory Appellate Tribunal, had been conferred on the Telecom Disputes Settlement and Appellate Tribunal (for brevity "TDSAT"), as such, the matter can be remitted back to it.

It is a matter of fact that at the time of admission, the 1st respondent was not functioning when the appeal was preferred before it and the documents were called for by this Court. Now, as the Appellate Authority's powers have been conferred on the Appellate Tribunal-TDSAT and same is stated to be functioning, as contended by the learned counsel for the parties, it would be apposite to refer back the matter to the competent authority-TDSAT, for adjudication of the appeal No.2/2014 filed against the impugned proceedings of the Airports Economic Regulatory Authority of India, dated 24.02.2014.

Learned counsel for the parties also submit that the matter can be remitted back to the TDSAT for reconsideration of the 'Till Charges' in accordance with the policy decision of the Ministry of Civil Aviation, New Delhi-the 1st respondent, in its order dated 10.06.2015.

A perusal of the records and order placed before this Court makes it cogent that the matter in these writ petitions is in relation to the order No.38/2013-14, dated 20.02.2014 issued by the Airports Economic Regulatory Authority of India. It has been brought to the notice of this Court that the Appellate Authority's power has been conferred on the TDSAT. In view of the same, this Court is not inclined to entertain these writ petitions, as alternative forum has been made available and the Appeal No.2/2014 is being remitted back to the TDSAT, the petitioner can raise all the issues before the TDSAT, as was raised in WP No.27390 of 2015.

Therefore, the Registry is directed to send the documents pertaining to the Appeal No.2/2014 filed against impugned order No.38/2013-14, dated 24.02.2014 passed by the Airports Economic Regulatory Authority of India, to the TDSAT and the Appellate Tribunal is requested to dispose of the same, in accordance with law, as expeditiously as possible. However, stay granted in WPMP No.40833 of 2015 in WP No.27390, dated 06.10.2015 shall continue till the final disposal of the appeal before the Appellate Tribunal, as it is in operation from the year 2015.

Accordingly, both the Writ Petitions are disposed of. As a sequel thereto, miscellaneous petitions, if any, pending, shall stands closed.

17-10-2019
kvs

A.RAJASHEKER REDDY,J



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WRIT PETITION No.22474 of 2014 & 27390 of 2015

Date 17.10.2019.

kvs

