**Item No.7 to 9.**

**IN THE HIGH COURT OF JUDICATURE AT CALCUTTA**

**CIVIL APPELLATE JURISDICTION**

**APPELLATE SIDE**

HEARD ON: 11.11.2021 & 18.01.2022

DELIVERED ON:15.06.2022

**CORAM:**

**THE HON'BLE MR. JUSTICE T. S. SIVAGNANAM**

**AND**

**THE HON'BLE MR. JUSTICE HIRANMAY BHATTACHARYYA**

**M.A.T. No.151 of 2021**

**Union of India & anr.**
**Vs.**
**MCPI Private Limited & Anr.**

**With**

**M.A.T. No.152 of 2021**

**Union of India & anr.**
**Vs.**
**IVL Dhunseri Petrochem Industries Pvt. Ltd. & Anr.**

**With**

**M.A.T. No.153 of 2021**

**Union of India & anr.**
**Vs.**
**M/s. Adani Wilmar Limited & Anr.**

**Appearance:-**

**Mr. Bhaskar Prosad Banerjee,**
**Mr. P. Baidya** ..... **for the appellants.**

**Mr. Rahul Dhanuka,**
**Mr. H. Chaudhary** ... **for the respondents.**

**Ms. Pooja Sah** ... **for respondent (in MAT 153 of 2021)**

**Mr. Vipul Kundalia** .. **for the Union of India.**

***JUDGMENT***

***(Judgment of the Court was delivered by* T.S. SIVAGNANAM, *J.)***

1. Since the issues involved in this batch of appeals are common, all the appeals are being heard analogously and are decided by this common judgment and order. For convenience, we take up M.A.T. 151 of 2021.

2. This appeal (M.A.T. 151 of 2021) filed by the revenue is directed against the order 12th March, 2020 in W.P. 11303(W) of 2019 filed by the respondent herein. The learned Single Bench had allowed the writ petition by following the decision of the Division Bench of the High Court of Gujarat in **Special Civil**

**Application 726 of 2018 (Mohit Minerals Pvt. Ltd. Vs. Union of India & 1 ors.)** wherein it was held that no tax is leviable under the Integrated Goods and Services Tax Act, 2007, on ocean freight, for services provided by a person, located in a non-taxable territory, by way of transportation of goods on a vessel from a place outside India up to Customs station of clearance in India.

3. In the said decision, the notification, which was also impugned in the writ petition filed by the respondent was declared to be unconstitutional. When these appeals were heard by us on 11th November, 2021, it was brought to our notice that as against the decision of the High Court of Gujarat in Mohit Minerals Pvt. Ltd., Special Leave Petition has been filed before the Hon'ble Supreme Court and the same was pending. Noting the said submission, the hearing of the appeals was deferred awaiting the decision of the Hon'ble Supreme Court. The prayer for interim stay sought for by the appellant revenue was rejected by the said order. Subsequently, the matters were heard by us on 18th January, 2022 and noting that the appeal before the Hon'ble Supreme Court was still pending, the matters were adjourned.

4. The Learned Advocate appearing for the respondent submitted that the Hon’ble Supreme Court in Civil Appeal No.1390 of 2022 dated May 19, 2022 in Union of India and Anr. Vs. M/s. Mohit Minerals Pvt. Ltd. and ors. has affirmed the decision of the High Court of Gujarat, which was relied on to allow the writ petition filed by the respondent before us.

5. We have perused the judgment and in paragraph 147, the Hon’ble Supreme Court while agreeing with the view taken by the High Court held to the extent that a tax on the supply of a service, which has already been included by the legislation as a tax on the composite supply of goods, cannot be allowed.

6. In the light of the decision of the Hon’ble Supreme Court, no grounds have been made to interfere with the order passed by the Learned Single Bench.

7. Accordingly, the appeals are dismissed.

8. No costs.

9. Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

**(T.S. SIVAGNANAM, J)**

I agree,

**(HIRANMAY BHATTACHARYYA, J.)**

NAREN/PALLAB(AR.C)