

112

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM-13812-CII-2022 in/and
FAO-2920-2019 (O&M)**

Date of decision : 31.10.2022

M/s Indian Oil Corporation Ltd. ...Appellant

Vs.

Union of India ...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ashish Kapoor, Advocate for the applicant-appellant.

Mr. Kuldeep Choudhary, Advocate for
Ms. Tanvi Jain, Sr.Panel Counsel
for respondent-Union of India.

MANOJ BAJAJ, J.

CM-13812-CII-2022

This application is for pre-poning the date of hearing of the main petition to an early date, which is fixed for 28.03.2023.

Notice in the application.

At this stage, Mr. Kuldeep Choudhary, Advocate for Ms. Tanvi Jain, Sr.Panel Counsel accepts notice on behalf of the respondent and does not oppose the prayer.

Application is allowed and date of hearing is pre-poned to today.

CM-10105-CII-2019

This application has been filed under Section 151 CPC for condonation of delay of 610 days in re-filing the appeal.

For the reasons mentioned in the application, same is allowed and delay of 610 days in re-filing the appeal is condoned.

CM stands allowed.

Main case

Appellant has filed this appeal to assail the order dated 16.06.2016 passed by the Railway Claims Tribunal, Chandigarh, whereby its claim petition filed under Section 16 Railway Claims Tribunal Act, 1987 seeking refund of excess freight charges, has been dismissed.

Learned counsel for the appellant submits that the claim raised by the appellant has been declined by the Railway Claims Tribunal only for non-fulfillment of the requirement of notice contemplated by Section 106 (2) The Railways Act, 1989 and the other issues were not decided on merits at all. He submits that the similar issue relating to the delay in serving the notice under Section 106 (2) The Railways Act, 1989 stands dealt with by this Court in the connected appeals arising from the same impugned award vide decision dated 08.10.2021 and while condoning the delay, the case was remitted back to the Tribunal for deciding the issues on merits. In this regard, Mr. Kapoor, learned counsel for the appellant has drawn the attention of the Court to the order dated 08.10.2021 passed in FAO No.3398-2017, titled "*Indian Oil Corporation Ltd. Vs. Union of India*".

At this stage, learned counsel appearing on behalf of the respondent states that indeed the present appeal is squarely covered by the decision of this Court rendered in FAO-3398-2017 and have no objection, if appeal is decided in this similar way by remitting back to the Tribunal for deciding on merits.

After hearing learned counsel for the parties and considering their common stand, the appeal is allowed, the impugned order dated 16.06.2016 is

set aside and the case is remanded back before the Railway Claims Tribunal for deciding the claims afresh in accordance with law.

The parties are directed to appear before the Tribunal on 30.11.2022 at 10.00 a.m.

(MANOJ BAJAJ)
JUDGE

31.10.2022
vanita

Whether speaking/reasoned :	Yes	No
Whether Reportable :	Yes	No