

235+111-B

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-1832-2018 (O&M)

Date of Decision: 30.11.2022

Indian Oil Corporation Ltd.

.. Appellant

Vs.

Union of India

..Respondent

CORAM: HON'BLE MR. JUSTICE MANOJ BAJAJ

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

Ms. Monika Chawla, Sr. Panel Counsel
for Union of India.

...

Manoj Bajaj, J. (Oral)

CM-10223-CII-2022

The application is for pre-poning the date of hearing of the appeal to an early date.

As the main case has already been listed today, the present application is rendered infructuous.

CM-7181-CII-2022

For the reasons mentioned in the application, the same is allowed and delay of 208 days in re-filing the appeal is condoned.

Main case

Appellant has filed this appeal to assail the award dated 30.01.2017 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 similar 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 has 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 30.01.2017 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 15.12.2022 at 10.00 a.m.

30.11.2022
Jasmine Kaur

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned	Yes	No
Whether reportable	Yes	No