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IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

FAO-1966-2018 (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-10227-CII-2022

This 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-7712-CII-2018

For the reasons mentioned in the application, the same is allowed and delay of 141 days in re-filing the appeal is condoned.

CM-7713-CII-2018

For the reasons mentioned in the application, the same is allowed and delay of 195 days in filing the appeal is condoned.

Main case

Appellant has filed this appeal to assail the award dated 29.09.2016 passed by the Railway Claims Tribunal, Chandigarh, whereby

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 on two grounds i.e. (i) for non-fulfillment of the requirement of notice contemplated by Section 106 (2), the Railways Act, 1989 and (ii) the claim petition was not filed by the authorised representative of the claimant company, whereas the other issues were not decided on merits at all. He submits that these two issues relating to the delay in serving the notice under Section 106 (2), the Railways Act, 1989 and competence of the person have already been dealt with separately by this Court in similar appeals bearing FAO No.3398 of 2017 and FAO No.4212 of 2013, both titled “Indian Oil Corporation Ltd. Vs. Union of India” respectively.

At this stage, Mr. Kapoor, learned counsel for the appellant submits that the FAO No.3398 of 2017 was remanded back before the Railway Claims Tribunal for deciding the claim petition on merits, and in case FAO No.4212 of 2013 since the issue relating to the assessment of compensation was decided by Tribunal, therefore, this Court while reversing the findings on the issue of competence of the person filing the claim petition, the amount of compensation assessed by the Tribunal was ordered to be disbursed. But according to him, in the present case, the appeal is required to be remitted back as the compensation has not been assessed by the Tribunal.

Learned counsel appearing on behalf of the respondent states that indeed the present appeals are squarely covered by the decision of this Court rendered in FAO-3398-2017 and FAO No.4212 of 2013 and has no objection, if appeal is decided in 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 29.09.2016 is set aside and the case is remanded back before the Railway Claims Tribunal for deciding the claims afresh on merits, 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