

**115-5 IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM-15433-CII-2022 in/and
FAO-5315-2018 (O&M)
Date of decision : 17.11.2022**

Indian Oil Corporation Ltd.

...Appellant

Vs.

Union of India

...Respondent

CORAM:- HON'BLE MR. JUSTICE MANOJ BAJAJ

Present: Mr. Ashish Kapoor, Advocate for the applicant-appellant.
Mr. Sunil Sharma, Sr.Panel Counsel
for respondent-Union of India.

MANOJ BAJAJ, J.

CM-15433-CII-2022

This application is for pre-poning the date of hearing of the main petition to an early date, which is fixed for 08.02.2023.

Notice in the application.

At this stage, Mr. Sunil Sharma, 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-17619-CII-2018

For the reasons mentioned in the application, the delay of 128 days in filing the appeal is condoned.

CM stands allowed.

Main case

Appellant has filed this appeal to assail the order dated 28.05.2015 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 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 28.05.2015 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.

17.11.2022

vanita

(MANOJ BAJAJ)
JUDGE

Whether speaking/reasoned :

Yes

No

Whether Reportable :

Yes

No