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W.A. No.3847 of 2019

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 10.07.2023

CORAM:

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR. JUSTICE P.B.BALAJI

W.A. No.3847 of 2019
and CMP.No.24664 of 2019

1. The Union of India,
Ministry of Communications,
Department of Post,
Dak Bhavan, Sansad Marg,
New Delhi 110 001.
2. The Chief Post Master General,
Tamil Nadu Circle,
Mount Road, Chennai 600 002.

.. Appellants

Vs.

M/s.Living Media India Ltd.,
Rep. by its General Manager-Sales (South),
Mr.C.V.Vaidyalingam,
No.98-A, Dr.Radhakrishnan Salai,
II Floor, Mylapore,
Chennai 600 004.

.. Respondent



W.A. No.3847 of 2019

Writ Appeal filed under Clause 15 of the Letters Patent against the order dated 16.06.2009 made in WP.No.17113 of 1999 passed by the learned Single Judge of this Court.

For appellant : Mr.Venkatasamy Babu
For respondents : Mr.Subha Reddy

JUDGMENT

(The Judgment of the Court was delivered by D.KRISHNAKUMAR, J)

Challenge in the Writ Petition is to the validity of the note appended to Rule 30 of the Indian Post Office Rules, 1993 issued by the Union of India in exercise of the powers conferred by the Indian Post Office Act, 1898.

2. The note appended to the above provision reads as follows:

"Note - Any newspaper in which a document of the following descriptions is enclosed as a supplement shall be treated as a book packet:-

(i) an advertisement sheet printed for an advertiser and sent to the publisher of newspaper for distribution with it;



W.A. No.3847 of 2019

(ii) an advertisement sheet with an order form attached a prospectus with an application from attached or a proposal or enquiry form;

(iii) any document drawn up in the form of a direct personal communication to the recipient such as a printed circular in the form of a letter purporting to be addressed to a person by whom the newspaper in which it is enclosed is received."

3. The learned Single Judge while allowing the Writ Petition struck down the note appended to sub Rule (1) to Rule 30 of the Indian Post Office Rules.

4. When a similar Writ Appeal filed by the appellant Department was dismissed, they filed an appeal before the Hon'ble Supreme Court in CA.Nos.2312 and 2313 of 2010. The Supreme Court dismissed the said appeal vide order dated 16.02.2023 holding that the respondents satisfy both the conditions stipulated in the Rule 17(B) of Indian Post Office Rules. Therefore, there is no way that the magazines sent by the respondents could be treated only as book packets, not as book packets containing periodicals.



W.A. No.3847 of 2019

5. The learned counsel for the respondent submitted that the issue involved in this Writ Appeal is already decided by the Supreme Court in CA.Nos.2312 and 2313 of 2010. Therefore, the said decision of the Hon'ble Supreme Court squarely applies to the instant appeal. The relevant portion of the said order is extracted hereunder:

"There is no denial of the fact that the respondents satisfy both the conditions stipulated in the aforesaid rule. Therefore, there is no way that the magazines sent by the respondents could be treated only as book packets not as book packets containing periodicals.

As a matter of fact the entire grounds of the above civil appeals revolve only around this question of fact about the application of Rule 17(B).

Therefore, we find that the impugned order of the High Court does not call for any interference. Hence, the appeals are dismissed."

6. In our considered view, the decision referred supra, would squarely apply to the case on hand. In such view of the matter, the appellant is not entitled to the relief sought for in the Writ Appeal. In fine, this Writ Appeal



W.A. No.3847 of 2019

fails and the same is dismissed on the same lines, as extracted in the above paragraph. No costs. Consequently, connected miscellaneous petitions are closed.

[D.K.K., J] [P.B.B., J.]
10.07.2023

Speaking order: Yes/No
Index : Yes/No
pvs



WEB COPY



W.A. No.3847 of 2019

D.KRISHNAKUMAR, J.
and
P.B.BALAJI, J.

pvs

W.A. No.3847 of 2019

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