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Cit Vs. Delhi Tourism and Transportation Development Corpn. Ltd.

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Court : Delhi

Decided On : Aug-09-2004

Reported in : [2005]142TAXMAN493(Delhi)

Appeal No. : IT Appeal No. 161 of 2004 , 9 August 2004

Appellant : Cit

Respondent : Delhi Tourism and Transportation Development Corpn. Ltd.

Advocate for Pet/Ap. : R.D. Jolly;for the Revenue

Judgement :

ORDER

This is a matter between the two departments of the State/Union or Department of Government and a public sector undertaking, The Apex Court in MTNL v. CBDT : [2004]267ITR647(SC) , pointed out as under:

'Undoubtedly, the right to enforce a right in a court of law cannot be effaced. However, it must be remembered that courts are overburdened with a large number of cases. The majority of such cases pertain to government departments and/or public sector undertakings. As is stated in Chief Conservator of Forest's case : [2003]2SCR180 it was not contemplated by the framers of the Constitution or the Civil Procedure Code that two departments of a State or Union of India and/or a department of the Government and a public sector undertaking fight a litigation in a court of law. Such a course is detrimental to public interest as it

entails avoidable wastage of public money and time. These are all limbs of the government and must act in co-ordination and not confrontation. The mechanism set up by this court is not, as suggested by Mr. Andhyarujina, only to conciliate between government departments. It is also set up for purposes of ensuring that frivolous disputes do not come before courts without clearance from the High Powered Committee. If it can, the High Powered Committee will resolve the dispute. If the dispute is not resolved the Committee would undoubtedly give clearance. However, there could also be frivolous litigation proposed by a department of the government or a public sector undertaking. This could be prevented by the High Powered Committee. In such cases there is no question of resolving the dispute. The Committee only has to refuse permission to litigate. No right of the department/public sector undertaking is affected in such a case. The litigation being of a frivolous nature must not be brought to court. To be remembered that in almost all cases one or the other party will not be happy with the decision of the High Powered Committee. The dissatisfied party will always claim that its rights are affected, when in fact, no right is affected. The Committee is constituted of highly placed officers of the government, who do not have an interest in the dispute, it is thus expected that their decision will be fair and honest. Even if the department/public sector undertaking finds the decision unpalatable, discipline requires that they abide by it. Otherwise the whole purpose of this exercise will be lost and every party against whom the decision is given will claim that they have been wronged and that their rights are affected. This should not be allowed to be done.' (p. 652)

2. In absence of a clearance by the High Powered Committee, the appeal is not required to be entertained at this stage and therefore, we dismiss this appeal. However, it will be open for the appellant to file an application for revival of this appeal after clearance is obtained. The appeal is dismissed accordingly.