

\$~27 & 28

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 8218/2018 & CM APPL. 31501/2018**

BHADOHI HOTELS LIMITED AND ANR. Petitioners

Through Mr Lalit Bhasin, Mr Ratna Dhingra,
Mr Ajay Pratap Singh, Aashima Singhal,
Advocates.

Versus

UNION OF INDIA AND ORS. Respondents

Through Mr Jasmeet Singh, CGSC with
Mr Srivats Kaushal, Advocates for UOI.

AND

+ **W.P.(C) 8229/2018 & CM APPL. 31507/2018**

AB HOTELS LIMITED AND ANR. Petitioners

Through Mr Lalit Bhasin, Mr Ratna Dhingra,
Mr Ajay Pratap Singh, Aashima Singhal,
Advocates.

Versus

UNION OF INDIA AND ORS. Respondents

Through Mr Jasmeet Singh, CGSC with
Mr Srivats Kaushal, Advocates for UOI.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% 15.11.2018

1. The learned counsel appearing for the respondents state that they have instructions that the respondents shall withdraw the recovery notices, impugned in these petitions, to await the judgment of the Supreme Court in

M/s Cummins Technologies India Pvt. Ltd. v. Union of India and Ors.: SLP(C) No. 28830/2017. He states that the question whether the SFIS Scheme would apply to Indian companies selling their services under allegedly foreign brands, is a subject matter of consideration before the Supreme Court.

2. The learned counsel appearing for the petitioners state that apart from the aforesaid issue, there are other serious objections to recovery notices including that Policy Interpretation Committee (PIC) did not have any jurisdiction to take any policy decision prior to 2012. They further state that the recovery notices, impugned in these petitions, are barred by limitation and the respondents do not have any recourse to Section 16 of the Foreign Trade (Development and Regulation) Act, 1992. This Court does not consider it necessary to address these issues as all the contentions, including one as articulated by the learned counsel for the petitioners, would be available to the petitioners as and when any steps are taken by the respondents for recovering any amount, which is subject matter of disputes in the present petitions.

3. The withdrawal of recovery notices are without prejudice to rights and contentions of the respondents including the right to issue a fresh recovery notices, if any. It is made expressly clear that this Court has not expressed any opinion on whether the respondents have any such right to issue the recovery notices.

4. Since the recovery notices are withdrawn, the present petitions do not survive and are disposed of with liberty to the petitioners to revive the same, if the occasion so arises. The pending application stands disposed of.

5. Order *dasti*.

VIBHU BAKHRU, J

NOVEMBER 15, 2018

pkv