

SUPR EME COU R T OF I N D I A  
RECORD OF PROCEEDINGS

CIVIL APPEAL NO(s). 5044 OF 2004

CENTRAL BANK OF INDIA & ANR.

Appellant (s)

VERSUS

SWADESHI POLYTEX LTD. & ORS.  
(With appln(s) for stay)

Respondent(s)

Date: 28/07/2009 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE MARKANDEY KATJU  
HON'BLE MR. JUSTICE H.L. DATTU

For Appellant(s) Mr. Jaideep Gupta, Sr. Adv.  
Mr. Dinesh Mathur, Adv.  
Mr. Sourabh Jain, Adv.  
Mr. Rameshwar Prasad Goyal, Adv.

For Respondent(s) Mr. K. Ramamoorthy, Sr. Adv.  
For R-1 Mr. N.L. Ganapathi, Adv.

Mr. Chander Shekhar Ashri, Adv. (NP)  
Mr. Chanchal Kumar Ganguli, Adv. (NP)  
Mr. K. Rajeev, Adv. (NP)

For R-3 Mr. Ashwani Kumar, Adv.

UPON hearing counsel the Court made the following  
ORDER

Heard learned counsel for the parties.

The impugned judgment of the National Commission is set aside and matter remanded to the National Commission for fresh disposal of the complaint in terms of the signed order. Since the Original Petition pertains to the year 1996, we request the National Commission to dispose off the same expeditiously.

We make it clear that insofar as interim orders dated 23.01.2006 and 12.06.2006, passed by this Court are concerned, the same will be subject to the final outcome of the Original Petition before the National Commission.

(Ajay Kr. Jain)  
Court Master

(Indu Satija)  
Court Master

(Signed order is placed on the file)  
IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 5044 OF 2004

Central Bank of India

.... Appellant

Versus

Swadeshi Polytex Ltd. & Ors.

.... Respondents

ORDER

Heard learned counsel for the parties.

This appeal has been filed against the impugned judgment and order dated 17.2.2004 of the National Consumer Disputes Redressal Commission, New Delhi (hereinafter for short 'the National Commission') whereby the complaint (Original Petition No. 32/1996) filed by the respondent No. 1 herein has been partly allowed.

We have carefully perused the judgment of the National Commission and have given our consideration to the contentions raised by learned counsel for the parties. In our view the National Commission has not considered the various points raised by the appellant herein about not strict observance of the terms and conditions of the letter of credit.

It has been held by this Court in the case of United Commercial Bank Vs. Bank of India & Ors. 1981 (2) SCC, 766 (paragraphs 28 to 32) that the terms of a letter of credit have to be strictly complied with. Hence, we set aside the impugned judgment of the National Commission and remand the matter to the National Commission for fresh disposal of the complaint in accordance with law and after taking into consideration the judgment of this Court in the case of United Commercial Bank (supra) and after taking into consideration the terms and conditions of the letter of credit. Since the Original Petition pertains to the year 1996, we request the National Commission to dispose off the same expeditiously.

Appeal allowed. No order as to the costs.

We make it clear that insofar as interim orders dated 23.01.2006 and 12.06.2006, passed by this Court are concerned, the same will be subject to the final outcome of the Original Petition before the National Commission.

(MARKANDEY KATJU) .....J.

(H.L. DATTU) .....J.

New Delhi;  
July 28, 2009