

&/
C.A.No. 4916 OF 2000

ITEM No.29

Court No.11

SECTION XVII
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Civil Appeal No.4916/2000.@@
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PRESTIGE HM-POLYCONTAINERS LTD.

Appellant

VERSUS

AMERICAN PRESIDENT LINES LTD. & ANR.

Respondents

[With Appln(s). for stay and with Office Report]

Date : 09/02/2001 This Petition was called on for hearing today.@@
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CORAM :

HON'BLE MR. JUSTICE D.P. MOHAPATRA
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For Appellant (s) Mr. Anil Mittal, Adv.
Mr. S.K. Chachra, Adv.
Mr. Dharam Bir Raj Vohra, Adv.

For Respondent (s) Mr. P.H. Parekh, Adv. and
Ms. Indoo P. Verma, Adv.

UPON hearing counsel the Court made the following

O R D E R

.....L.....I.....T....T.....T.....T.....T.....T.....T.....J
.SP2

The Civil Appeal is allowed in terms of the Signed
Order.

.SP1

(Subhash Chander)
Court Master

(S. Malkani)
Court Master

[Signed Order is placed on the file]

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.....L.....I.....T.....T.....T.....T.....T.....T.....J

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.4916 OF 2000@@
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Prestige HM-Polycontainers Ltd.Appellant

Versus

American President Lines Ltd. & Anr.Respondents

O R D E R@@
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.SP2

Heard learned counsel for the appellant and learned counsel for respondent no.1. By the order passed on 18th September 2000 in this case, notice was issued to the respondents to show cause why the matter should not be remanded to the National Commission for considering the question of liability of the carrier of goods by sea (respondents herein), as distinct from liability of the buyers.

This appeal filed under Section 23 of the Consumer Protection Act, 1986, is directed against the order dated 05th July 2000 of the National Consumer Disputes Redressal Commission (for short 'the Commission'), dismissing the complaint on the ground that the complainant failed to inform the Commission about the outcome of the decision of the foreign court before which certain dispute was pending. The order, which is a short one, reads :

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"It has been stated on behalf of the Complainant that they are unable to inform about the outcome of the decision of the foreign court about the dispute. The counsel for the Complainant was specifically asked this question on the various dates of hearing. It has been informed by the Counsel appearing for the Complainant that their client is not in touch with them. In that view of the matter, the Complaint is dismissed."

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Learned counsel for the appellant submits that due to a communication gap between the appellant and its counsel, the requisite information could not be placed before the Commission when the case was taken up. He further submits that in the meantime, the requisite information has been received and indeed it is a part of the record in this case.

From the order under challenge it is clear that the Commission has not considered the case on merits. It is also not stated in the order how the information regarding outcome of the decision of the foreign court is relevant for adjudication of the dispute raised in the case. In the facts and circumstances we are of the view that the matter should be decided on merit. Accordingly, the appeal is allowed. The order passed on 5th July 2000 in Original Petition No.279 of 1992 is set aside. The matter is remitted to the National Consumer Disputes Redressal Commission for disposal in accordance with law, after giving opportunity of hearing to the parties.

Since the matter was delayed before the Commission on account of the default committed by the appellant in furnishing the requisite information, the appellant shall pay a sum of Rs.5,000 (Rupees Five Thousand only) as costs to the respondent

no.1.

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Mr. P.H. Parekh, learned counsel appearing for respondent no.1 says that the said amount may be paid to the Fund set up by the High Court of Gujarat for providing relief to the victims of the recent earthquake in the State.

.SP1

.....J.
[D.P. MOHAPATRA]

.....J.
[SHIVARAJ V. PATIL]

New Delhi.
February 09, 2001.@@
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