

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

Petition(s) for Special Leave to Appeal (Civil) No(s).27308/2009

(From the judgement and order dated 09/03/2009 in CRP No. 636/2007  
of The HIGH COURT OF KARNATAKA AT BANGALORE)

M/S. MYSORE SALES INTERNATIONAL LTD. Petitioner(s)  
VERSUS  
UNITED INDIA INSURANCE CO. LTD. & ORS. Respondent(s)

(With prayer for interim relief )

WITH SLP(C) NO. 27328 of 2009; SLP(C) NO. 27382 of 2009  
SLP(C) NO. 27389 of 2009; SLP(C) NO. 27392 of 2009  
SLP(C) NO. 27457 of 2009; SLP(C) NO. 27498 of 2009  
SLP(C) NO. 27540 of 2009; SLP(C) NO. 27628 of 2009  
SLP(C) NO. 27667 of 2009; SLP(C) NO. 27724 of 2009  
SLP(C) NO. 27745 of 2009; SLP(C) NO. 27787 of 2009  
SLP(C) NO. 27839 of 2009; SLP(C) NO. 27882 of 2009  
SLP(C) NO. 27944 of 2009

(With prayer for interim relief and office report)

WITH SLP(C) NO.28861-28908/2009  
(With prayer for interim relief and office report)

Date: 06/11/2009 This Petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE R.V. RAVEENDRAN  
HON'BLE MR. JUSTICE B. SUDERSHAN REDDY

For Petitioner(s) Mr. S.N. Bhat, Adv.  
Mr. K.M. Prakash, Adv.  
Ms. Deepa Mahajan, Adv.  
Mr. D.P. Chaturvedi, Adv.  
  
Mr. P.P. Malhotra, ASG  
Mr. Rajeev Nanda, Adv.  
Mr. Chetan Chawla, Adv.  
Mr. B.K. Prasad, Adv.

For Respondent(s)

UPON hearing counsel the Court made the following  
O R D E R

SLP(C) No.27457/2009

Issue notice.

.....2.

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ITEM NO.28+70 COURT NO.5 DATED 06/11/2009 ...contd.

All other connected SLPs (relating to Hindustan  
Aeronautics Ltd.)

The Hindustan Aeronautics Ltd., a government  
company, imported certain spare parts. They were insured  
with United India Insurance Co. Ltd., the first  
respondent. When the goods landed in the Bangalore

airport, pending customs clearance, they were in the custody of Mysore Sales International Ltd., (MSIL, for short) a State Government company, as custodian of goods in a Customs Bonded Godown appointed by the Customs Department under Section 45(1) of the Customs Act. The goods were destroyed in a fire on 4.6.2000 before they could be delivered to HAL. The insurer settled the claims of HAL and thus became the subrogee. HAL and the insurer filed small cause suits for recovery of the value of the goods. As the value of each package was around Rs.9,000/-, separate small cause suits were filed. The Court of Small Causes decreed the suits with interest only against MSIL though the suits were filed against MSIL and the Customs Department.

Feeling aggrieved, MSIL filed revisions before the High Court. The High Court allowed the revisions in part and made the Customs Department also jointly and severally liable alongwith the MSIL.  
.....3.

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ITEM NO.28+70 COURT NO.5 DATED 06/11/2009 ...contd.

The common judgment of the High Court in the revision petitions filed by MSIL is challenged by MSIL on the ground that it has issued public notice on 10.10.1994 restricting its liability per package to US\$20 and, therefore, it cannot be made liable for the entire amount. The Customs Department has also challenged the order contending that having regard to Section 45(1) of the Customs Act, MSIL alone is liable for making the entire payment and not the Customs Department.

There is an undisputed finding of fact that the goods of HAL were lost in the fire and there is also a finding of fact in regard to value thereof. The fact that HAL and the insurer should obtain reimbursement is

The fact

not disputed. The only limited question that arise for consideration is whether the Customs Department should be made liable or MSIL should be made liable or whether both should be made jointly and severally liable or whether MSIL is only liable to an extent of US\$20.

We are surprised that such cases are being litigated upto this Court. MSIL is a State Government company. HAL is a Central Government undertaking. The insurer is also a Central Government controlled company.

....4.

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ITEM NO.28+70 COURT NO.5 DATED 06/11/2009 ...contd.

The Customs Department is a department of the Central Government. When three of the parties to the litigation are either the Central Government or the instrumentalities of Central Government and a State Government undertaking, and the liability is not disputed and the dispute is only in regard to extent of sharing the burden by MSIL and Customs Department, the parties could have easily settled the disputes by mutual negotiations. Therefore, these special leave petitions are dismissed.

It is open to MSIL and Customs Department to sort out the matter by mutual negotiations as to their respective liability in these cases, particularly as the claimant was also Central Government Undertaking.

( Ravi P. Verma )  
Court Master

( M.S. Negi )  
Court Master

Regarding SLPs relating to M/s. Yokogawa Blue Star or M/s. MICO

As informed by Mr. S.N. Bhat, Adv., in the SLPs listed today, only SLP No.27457/2009 relates to M/s. Yokogawa Blue Star Ltd.

This apart, there are 6 other SLPs relating to M/s Yokogawa Blue Star Ltd. or M/s. MICO but they all are lying defective in the Registry for some reasons. They will be listed before the Court as and when the defects are cured.