
**Commissioner of Income Tax Vs Delhi Tourism and Transportation
Development Corpn. Ltd.**

IT Appeal No. 161 of 2004 9 August 2004

Court: Delhi High Court

Date of Decision: Aug. 9, 2004

Citation: (2005) 142 TAXMAN 307

Hon'ble Judges: Badar Durrez Ahmed, J

Bench: Division Bench

Advocate: R.D. Jollyfor the Revenue, for the Appellant;

Judgement

@JUDGMENTTAG-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 Mahanagar Telephone Nigam Ltd. Vs. Chairman, Central Board, Direct Taxes and Another, 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 Forests, Govt. of A.P. Vs. The Collector and Others, it was not contemplated by the framers of the Constitution or the CPC 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.