

IN THE SUPREME COURT OF INDIA
CIVIL ORIGINAL JURISDICTION

WRIT PETITION(CIVIL) NO(S). 977/2014

P K ABOOBACKER & ORS.

PETITIONER(S)

VERSUS

UNION OF INDIA & ORS.

RESPONDENT(S)

WITH

WRIT PETITION(C) NO. 302/2016

WRIT PETITION(C) NO. 1086/2017

WRIT PETITION(C) NO. 1132/2017

WRIT PETITION(C) NO. 1143/2017

WRIT PETITION(C) NO. 1149/2017

WRIT PETITION(C) NO. 1250/2017

WRIT PETITION(C) NO. 697/2019

O R D E R

These matters were heard on 25.09.2019 when
the Court passed the following order :

“Counsel for the petitioner(s) submit that the issue involved in the present writ petitions concern assessee(s) whose liability to pay tax even if this Court were to rule against them, would be less than two crores in each case. As a matter

of fact, according to the petitioner(s), the issue is already decided in favour of the assessee(s) by the Customs, Excise and Service Tax Appellate Tribunal, West Zonal Bench, Mumbai passed in *Atlas Tours & Travels Pvt. Ltd. vs. Commissioner of Service Tax, Mumbai*, on 15.01.2015, which decision in turn has been upheld by this Court on 29.01.2016 in Civil Appeal Nos.781-784/2016 arising from Diary No.28542/2015 titled 'Commissioner of Service Tax, Mumbai vs. M/s. Atlas Tours & Travels Pvt. Ltd.

It is submitted that instead of multiplying the proceedings, it is but appropriate that the Department takes a holistic view of the matter and make appropriate statement before this Court on the next occasion.

The counsel for the respondent-Department submits that if such representation(s) is/are made to the Board/Chairman, Central Board of Indirect Taxes and Customs (CBIC) within one week from today, the said authority would examine the same and take appropriate view as may be permissible in law.

While recording these submissions, we defer the hearing of these matters till 7th November, 2019, to be listed in the miscellaneous list under caption 'For Directions'."

Pursuant to the liberty given to the petitioner(s), it is stated that the petitioner(s) have made representation to the Chairman, Central Board of Indirect Taxes and Customs (CBIC). However, no decision has been taken on the said representation thus far nor communicated to the

petitioner(s). The matter(s) were adjourned on couple of occasions to enable the respondent(s) to take a firm position so that the matters could proceed accordingly.

Today, learned senior counsel for the Union of India, on instructions, submits that the petitioner(s) are free to make representation to the competent authority/CBIC provided they withdraw the present petitions and only then their representation will be processed by the concerned authority/CBIC on its own merits and as per the extant policy.

Counsel for the petitioner(s) were at pains to point out that the issue was already answered by the Appellate Tribunal and more so in light of notification No.25/2012-ST, dated 20.06.2012 as amended upto Noti.No.16/2015-ST, dated 19.05.2015, and the response of the Department to the query posed on behalf of the petitioner(s) has been of accepting the fact that the Haj pilgrimage and Umrah pilgrimage are religious ceremonies of Islam, which are performed and conducted in Saudi Arabia.

In our opinion, it would be appropriate to permit the petitioner(s) to withdraw the writ

petition(s) with liberty to pursue the representation before the competent authority/CBIC without prejudice to the rights and contentions available to the petitioner(s) in the present petition(s).

We direct the competent authority/CBIC to decide their representation within 90 days from today. Until then, no coercive action be taken against the petitioner(s) and /or their members in connection with the demand referred to in the writ petition(s)

In the event, decision of the competent authority/CBIC is not favourable to the petitioner(s), it will be open to the petitioner(s) to get the present writ petition(s) revived by filing a formal application(s), while also assailing the correctness of view taken by the competent authority/CBIC, if so required.

This liberty is without prejudice to the remedy of Amnesty Scheme available to the petitioner(s) and it will have to be extended to the petitioner(s) in light of the liberty given in terms of this order, if and when required.

Ordered accordingly.

The writ petitions and pending applications are disposed of as withdrawn with the liberty as aforesaid.

....., J.
(A.M. KHANWILKAR)

....., J.
(DINESH MAHESHWARI)

NEW DELHI
DECEMBER 11, 2019

ITEM NO.9

COURT NO.7

SECTION X

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

Writ Petition(s)(Civil) No(s). 977/2014

P K ABOOBACKER & ORS.

Petitioner(s)

VERSUS

UNION OF INDIA & ORS.

Respondent(s)

([FOR DIRECTIONS]

IA No. 6/2017 - EXEMPTION FROM FILING O.T.
 IA No. 7/2017 - INTERVENTION APPLICATION
 IA No. 5/2017 - INTERVENTION APPLICATION
 IA No. 1/2014 - STAY APPLICATION)

WITH

W.P.(C) No. 302/2016 (X)
 IA No. 2/2016 - GRANT OF INTERIM RELIEF
 IA No. 1/2016 - GRANT OF INTERIM RELIEF)

W.P.(C) No. 1086/2017 (X)

W.P.(C) No. 1132/2017 (X)
 (FOR ADMISSION)

W.P.(C) No. 1143/2017 (X)

W.P.(C) No. 1149/2017 (X)
 (FOR ADMISSION)

W.P.(C) No. 1250/2017 (X)

W.P.(C) No. 697/2019 (X)

Date : 11-12-2019 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR
 HON'BLE MR. JUSTICE DINESH MAHESHWARI

For Petitioner(s)

Mr. Dushyant Dave, Sr. adv.
 Mr. Sulaiman Mohd. Khan, adv.
 Md. Ainul Ansari, Adv.
 Ms. Taiba Khan, Adv.
 Ms. Vyakhya Pandey, Adv.
 Mr. Mohit Rastogi, Adv.
 Mr. Sunil Khatwani, Adv.
 Mr. Pradeep Jatav, Adv.
 Mr. Surjeet Kumar, Adv.
 Mr. Rohit Amit Sthalekar, AOR
 Mr. Yadav Narender Singh, AOR

Mr. Sunil Kumar Verma, AOR
Mr. Deepak Kumar, Adv.
Mr. Prerit Shukla, Adv.

Mr. S.K. Bagaria, Sr. Adv.
Mr. Gaurav Agarwal, Adv.
Mr. S. Durairaj, Adv.

Mr. Arijit Prasad, Sr. Adv.
Mr. Zoheb Hossain, Adv.
Mr. Sanchar Anand, Adv.
Mr. Mohd. Akhil, Adv.
Mr. Satyalipsu Ray, Adv.
Mr. Shraddha Dashmukh, Adv.
Mr. Sushil Dubey, Adv.
Mr. Puneet Pathak, Adv.
Mr. Anuj Aggrwal, Adv.
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Ms. Rashmi Nandakumar, AOR
Ms. Ayushma Awasthi, Adv.
Mr. Shankar Narayanan, Adv.

Ms. Asha Gopalan Nair, AOR

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

The writ petitions and pending applications
are disposed of as withdrawn in terms of the signed
order.

(NEETU KHAJURIA)
COURT MASTER

(VIDYA NEGI)
COURT MASTER

(Signed order is placed on the file.)