

CASE NO.:
Appeal (civil) 2971 of 2008

PETITIONER:
Citibank N.A.

RESPONDENT:
Geekay Agropack (P) Ltd. & Anr

DATE OF JUDGMENT: 24/04/2008

BENCH:
A.K.MATHUR & ALTAMAS KABIR

JUDGMENT:
JUDGMENT

O R D E R

CIVIL APPEAL NO. 2971 OF 2008
(Arising out of SLP(C) No. 13130 of 2006)
WITH
CIVIL APPEAL NO. 2972 OF 2008
(Arising out of SLP(C) No. 13531 of 2006)
State Bank of Mysore Appellant
Versus
Geekay Agropack (P) Ltd. & Anr. Respondents
WITH
CIVIL APPEAL NO. 2973 OF 2008
(Arising out of SLP(C) No. 5203 of 2007)
Geekay Agropack (P) Ltd. Appellant
Versus
State Bank of Mysore & Anr. Respondents

1. Delay condoned in SLP(C) No. 5203/2007.
2. Leave granted in all the special leave petitions.
3. All these appeals arise out of the common judgment dated 7.3.2006 of the National Consumer Disputes Redressal Commission, Circuit Bench, Karnataka at Bangalore (hereinafter for short the "National Commission") in First Appeal No. 218/1997. Since all the three appeals are filed against the common judgment of the National Commission and involve a common question, they are being disposed of by a common order. By the impugned judgment the National Commission has found major deficiency in service on the part of Citibank N.A. and State Bank of Mysore. Accordingly, the National Commission held both Citibank N.A. and State Bank of Mysore jointly liable to pay compensation of Rs. 5 lakhs to Geekay Agropack (P) Ltd. (hereinafter for short "Geekay") and Citibank was directed to pay costs of Rs.50,000/- to Geekay.
4. Aggrieved against the judgment and order of the National Commission, Citibank N.A. and State Bank of Mysore have filed Civil Appeals arising out of SLP(C) Nos. 13130/2006 and 13531/2006 respectively. Geekay has filed civil appeal arising out of SLP(C) No. 5203/2007 aggrieved against the inadequate compensation awarded by the National Commission for supply of the goods.
5. Brief facts leading to the filing of the present appeals are that on 21.4.1994 ASK Ingredients Inc. of USA placed a purchase order with Geekay for supply of 1,110 Kgs. of Oleoresin Capsicum and 925 Kgs. of Red Chillies seed okl. For the export of these goods on 11.5.1994 Geekay furnished the necessary documents such as, bill of lading, invoice, bill of exchange, details of the purchaser to the State Bank of Mysore alongwith a covering letter (Collection Order) according to which Citibank N.A. was required to collect the proceeds from the purchaser ASK Ingredients Inc. On 25.5.1994 State Bank of Mysore sent two sets of all the documents to Citibank N.A., New York for collection. As both the Banks failed to collect the sale proceeds from the purchaser, Geekay filed a complaint before the State Consumer Disputes Redressal Commission, Karnataka at Bangalore for recovering the value of goods with interest and expenses amounting to Rs. 14,37,000/-. By judgment and order dated 30.4.1997, the State Commission dismissed

the complaint. Aggrieved against the order dated 30.4.1997 of the State Commission, the complainant Geekay filed an appeal before the National Commission.

6. The National Commission after detailed consideration of the matter and referring to various documents filed by the parties and necessary commercial instructions having bearing on the subject found that the State Bank of Mysore as well as Citibank N.A., New York are jointly and severally responsible for deficiency in service and granted a compensation in the sum of Rs.5 lakhs to Geekay and directed Citibank N.A. to pay costs of Rs.50,000/- to the appellant-Geekay. The National Commission in the impugned judgment and order has observed as under :-

"For the reasons best known the Citibank, from the beginning, there was no response from the Citibank despite several letters and reminders with regard to the documents which were handed over to it. The Citibank was bound to respond to the communications and inform the S.B.M. as well as the complainant whether the amount was realized by it or not. If not realized, the Bill of Exchange with list of documents, was required to be returned with due diligence and with necessary note. For this deficiency in service, Respondent No. 2 is liable to pay the damages to the complainant. Further, it was the duty of the Respondent No. 1 Bank to take appropriate steps at appropriate time against the Respondent No. 2, Citibank. In such cases, there would be joint and several liability of both the banks for the deficiency in service. Considering the facts of the case, we hold that the Respondent Nos. 1 and 2 Banks are liable for the deficiency in service as stated above. For such deficiency in service they are to pay compensation which we assess at Rs.5 lakhs payable to the complainant."

7. The National Commission has considered all the relevant documents having a bearing on the subject and ultimately concluded and found both the banks responsible for deficiency in service.

8. We have heard learned counsel for the parties. We are of the opinion that the view taken by the National Commission cannot be faulted with and we are in complete agreement with the National Commission that there was a deficiency in service by the Citibank N.A., New York and consequently by the State Bank of Mysore also. Therefore, compensation has been adequately awarded for deficiency in service against both the Banks and it would be open for the State Bank of Mysore to recover the said compensation from the Citibank, N.A. Consequently, there is no reason to interfere with the impugned judgment and order.

9. The appeal filed by Geekay for not getting adequate compensation for the total amount of loss incurred by it is misconceived. For the recovery of total amount of loss, it is open for the appellant Geekay to file a civil suit before the appropriate Court which, we

are informed has already been filed. The National Commission could have awarded compensation only for the deficiency of service only. The said compensation has been awarded by the National Commission. Therefore, there is no reason to interfere in the appeal filed by Geekay also. In the result, all these appeals are dismissed. No order as to

costs insofar as proceedings before this Court are concerned