

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-2/38/2022

M/s. A A Foundation for Safety Appellant
Through Sh. S.P Arora & Sh. Rajiv Arora, Ld. Counsel for the Appellant

Vs.

RPFC-II, Raipur, Chhatishgarh
Respondent
Through Sh. B.B Pradhan, Ld. Counsel for the Respondent

ORDER DATED :- 10.11.2022

Today the matter was listed for hearing on admission of the appeal. However, the Ld. Counsel for the Respondent raised the question of limitation in filing the appeal. Detailed arguments were heard and it was found that the LCR is required for proper adjudication of the matter. Accordingly, the Ld. Counsel for the Respondent is directed to submit the LCR on or before 07.12.2022 which is the next date of hearing in this matter. Meanwhile, the Respondent authority is directed not to take any coercive measure for recovery of the amount as mentioned in the impugned order till next date of hearing.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-2/32/2019

M/s. Viraj Exports Pvt. Ltd. Appellant
Through Sh. Rajiv Shukla & Sh. Sanjay Kumar, Ld. Counsels for the Appellant

Vs.

CBT, APFC, Noida Respondent
Through Sh. Narender Kumar, Ld. Counsel for the Respondent

ORDER DATED :- 10.11.2022

Copy of the reply filed on behalf of the Ld. Counsel for the Respondent is supplied to the Appellant today who wishes to file the rejoinder. Accordingly, list the matter on 31.01.2023 for filing rejoinder.

The Ld. Counsel for the Respondent also pressed his application for vacation of stay granted by this Tribunal. However, perusal of the record shows that due to non-compliance on part of the Appellant, this Tribunal had vacated the stay vide order dated 28.03.2022. Accordingly, the present application for vacation of stay is dismissed as being non-maintainable.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-2/21/2021

M/s. Rekhta Foundation
Through Sh. S.K Gupta, Ld. Counsel for the Appellant

Appellant

Vs.

APFC- Noida
Through Sh. B.B Pradhan, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 10.11.2022

The Ld. Counsel for the Respondent pressed his application filed for vacation of stay. Heard both the counsels and accordingly following order is passed;-

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

It has been stated in the petition that the Tribunal by order **dated 08.11.2021** has directed that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order. The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013)have held that

Para 36- " At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay in against the proceedings of a civil or criminal trial is operating, the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay is more important than having the trial finalized. The trial court where order of stay of civil or criminal proceeding is produced, may

fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced.”

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

Having heard the argument and on a mindful reading of the order passed by the Hon’ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i. A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
- ii. The trial has commenced either by framing of issue in a civil trial and or on framing of charge in a criminal trial
- iii. When the High court or civil or criminal Appellate/Revisional court have granted stay on the said trial proceedings and more than six months have passed since the date of order and no extension of stay has been allowed by a speaking order. The aforesaid directions will not apply to cases where a quasi judicial body or Tribunal grants stay.

Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon’ble SC , by their order dt 15th October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months , unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15th Oct 2020, leads to the only meaning that “A stay granted by any court” means and refers to a stay granted by the civil and criminal Appellate/ Revisional courts mentioned in para36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon’ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that the petitioner is responsible for delay , merely relying on the judgment of the Hon’ble SC the stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call on 07.12.2022 for final arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 219(16)2015

M/s. Inductis (India) Pvt. Ltd. Appellant
Through Sh. Anil Bhatt & Sh. Kamal Kant Tyagi, Ld. Counsel for the Appellant

Vs.

APFC, Gurgaon Respondent
Through Sh. Abhishek Mishra, Ld. Counsel for the Respondent

ORDER DATED :- 10.11.2022

Today the Ld. Counsel for the Appellant in this matter requested for correction of his name in the order passed on 07.11.2022 by this Tribunal. Perused the record and in exercise of the power conferred under section 7L(2) of the EPF and MP Act,1952, it is ordered that *-the name Sh. Anil Bhatt, wherever mentioned in the order dated 07.11.2022 be read as Sh. Alok Bhasin.*

Presiding Officer