

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, ROUSE AVENUE,
DISTRICT COURT COMPLEX, DELHI.**

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

ATA No. 65(4)2015

M/s. Bobby Creation

Appellant

VS.

APFC, Delhi

Respondent

ORDER DATED :-24/05/2022

Present:- Ms. Akanksha Narang, Ld. Counsel for the appellant.
Shri Rikesh Singh, Ld. Counsel for the Respondent.

This order deals with the objection raised by the management with regard to the maintainability of the appeal. When the matter came up for final argument the Ld. Counsel for the respondent raised objection with regard to the maintainability of the appeal in as much as the final order passed u/s 14B was not filed alongwith the appeal. In reply the Ld. Counsel for the appellant had submitted that the final order passed was never communicated to the appellant and whatever order was received the same has been filed alongwith the memo of the appeal. In view of the submission the LCR was called for.

Yesterday during hearing on the maintainability the LCR was perused and it was found that the final order u/s 14B was passed against the appellant establishment alongwith an order u/s 7Q of the Act and the same was dispatched to the appellant on 2nd January 2015. The LCR doesn't contain any evidence in proof of the fact that the said order was delivered to the appellant establishment. In such a situation this tribunal has no hesitation to accept that the appellant came to know about the impugned order only on 28/11/2014 when the revised statement directing deposit of the assessed damage and interest was served on the establishment. Since, the appeal has been filed within the prescribed period of limitation from the date of said knowledge the appeal is held maintainable. The objection raised by the respondent is accordingly answered. The appellant is given liberty of inspecting the LCR and the orders passed u/s 14B and 7Q of the Act. Call the matter on 03.08.2022 for final argument.

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-1/35/2022

M/s. Vishakha Facility Management Pvt. Ltd.
Through Sh. Nikhil Patnayak, Ld. Counsel for the Appellant

Appellant

Vs.

RPFC, Delhi (E)
Through Sh. Rajesh Kumar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 24/05/2022

The appeal is filed within time, hence admitted qua the order passed u/s 14B of the Act. The Ld. Counsel for the Respondent raised objection that some of the annexure filed with the appeal are not legible and the Appellant be directed to file typed copy of the said annexure. The Appellant is directed to file the typed copy of the annexure which are not legible. List the matter on 31.05.2022 for hearing on the application filed by the Appellant for granting stay on operation of the impugned order passed u/s 14B. Meanwhile, the Respondent authority is directed not to take any coercive measures for recovery of the amount as mentioned in the impugned order passed u/s 14B of the Act of this appeal 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-1/36/2022

M/s. Vishakha Facility Management Pvt. Ltd.
Through Sh. Nikhil Patnayak, Ld. Counsel for the Appellant

Appellant

Vs.

RPFC, Delhi (E)
Through Sh. Rajesh Kumar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 24/05/2022

The appeal is filed within time, hence admitted qua the order passed u/s 14B of the Act. The Ld. Counsel for the Respondent raised objection that some of the annexure filed with the appeal are not legible and the Appellant be directed to file typed copy of the said annexure. The Appellant is directed to file the typed copy of the annexure which are not legible. List the matter on 31.05.2022 for hearing on the application filed by the Appellant for granting stay on operation of the impugned order passed u/s 14B. Meanwhile, the Respondent authority is directed not to take any coercive measures for recovery of the amount as mentioned in the impugned order passed u/s 14B of the Act of this appeal 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-1/34/2022

M/s. PCR Buildtech Pvt. Ltd. Appellant
Through Ms. Shivani Gole, Ld. Counsel for the Appellant

Vs.

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

ORDER DATED :- 24/05/2022

Arguments on the application filed by the Ld. Counsel for the Appellant for granting stay on operation of the impugned order heard and concluded. List the matter on 01.08.2022 for pronouncement of order on the same. 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-1/08/2020

M/s. V5 Global Services Pvt. Ltd.
Through Sh. Krishan Kartik, Ld. Counsel for the Appellant

Appellant

Vs.

RPFC-II, Delhi (E)
Through Sh. Rajesh Kumar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 24/05/2022

Arguments on the miscellaneous application filed for granting stay on operation of the impugned order heard and concluded. List the matter on 02.08.2022 for pronouncement of order on the same. Meanwhile, the interim orders to continue till next date of hearing.

Presiding Officer

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, ROUSE AVENUE,
DISTRICT COURT COMPLEX, DELHI.**

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

ATA No. D-1/103/2019

M/s. Indian Olympic Association

Appellant

VS.

APFC, Delhi (S)

Respondent

ORDER DATED :-24/05/2022

Present:- Shri Sanjay Kumar, Ld. Counsel for the appellant alongwith Sh.
Ruchit Mishra & Sh. Ramnik Mishra, Ld. Counsels
Shri Rajesh Kumar, Ld. Counsel for the Respondent 1 and 2.
Shri Gaurav Kumar, for the respondent no.3 in person.

The matter stands posted today for filing the revised memo of the parties. The Ld. Counsel for the respondent submitted that this tribunal by order dated 12.01.2022 had allowed impleadment of respondent no.3 who was the complainant before the commissioner during the inquiry. But the son of the said complainant has now informed the complainant who was his mother is dead and being legal heir he should be substituted. But on perusal of the record it is found that the son of the complainant having name Gaurav Sharma LR of late Smt. Arvind Bala had filed the petition under O1R10 of CPC which was allowed on 12.01.2022. in view of the same there is no need for substitution of LR. The appellant has already filed the amended cause title which is on record. Call the matter on 18.07.2022 for reply by newly added R3 who has been supplied copy of the appeal memo.

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-1/22/2021

M/s. Cyber Media (India) Ltd. Appellant
Through Sh. Haribansh Manav, Ld. Counsel for the Appellant

Vs.

APFC, Delhi (S) Respondent
Through Sh. B.B Pradhan , Ld. Counsel for the Respondent

ORDER DATED :- 24/05/2022

The Ld. Counsel for the Respondent filed the reply to the main appeal. Copy of the same stands supplied to the Ld. Counsel for the Appellant. List the matter on 13.10.2022 for final arguments. Meanwhile, the Appellant shall have the liberty to file the rejoinder, if any, along with serving a copy of the same upon the Respondent.

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-1/09/2018

M/s. Perfect Computer Forms Pvt. Ltd.
Through Sh. Vinod Kumar, A/R for the Appellant

Appellant

Vs.

APFC, Delhi
Through Sh. Rajesh Kumar , Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 24/05/2022

The Ld. Counsel for Respondent prayed for more time for filing the reply. Granted. List the matter on 02.08.2022 for filing the reply.

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-1/07/2019

M/s. Zillion Infra Projects Pvt. Ltd. Appellant
Through Sh. S.P Arora & Sh. Rajiv Arora, Ld. Counsel for the Appellant

Vs.

APFC, Delhi (N) Respondent
Through Sh. S.N Mahanta, Ld. Counsel for the Respondent

ORDER DATED :- 24/05/2022

Today the Ld. Counsel for the Respondent pressed his miscellaneous application filed for vacation of stay. Heard and the 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 **dt 21.02.2019** 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 12/10/2022 for 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. 771(16)2015

M/s. Lakhani Arman Shoes Pvt. Ltd.
Through Sh.Sanjay Kumar, Ld. Counsel for the Appellant

Appellant

Vs.

RPFC, Faridabad
Through Sh. B.B. Pradhan, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 24/05/2022

The order could not be pronounced in this matter. List the matter on
03.08.2022 for pronouncement of order.

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. 22(16)2015

M/s. Lakhani Rubber Work
Through Sh. Sanjay Kumar, Ld. Counsel for the Appellant

Appellant

Vs.

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

Respondent

ORDER DATED :- 24/05/2022

Matter heard in part. List the matter on 04.08.2022 for
continuation of arguments in this matter.

Presiding Officer