

M/s. Basu Dev Rout Sanitation Vs.
A PFC, Delhi (West)

Appeal No. D-1/69/2019

ORDER DATED:- 20-11-2020

Present:- Shri P.S Sridhar Raj, Ld. Counsel for the appellant.
Shri Puneet Garg, Ld. Counsel for the Respondent.

This order deals with the application filed by the appellant praying restoration of the appeal dismissed for non compliance to its original no. for the reasons stated therein.

Argument at length was heard on the application being advanced by the counsel for both the parties.

The Ld. Counsel for the appellant submitted that the appeal was filed on 05.07.2019 and on 07.08.2019 this tribunal had passed an order directing the appellant to deposit Rs. 25,00,000 within 8 weeks from the date of order in compliance to the provision of section 70 of the Act. On 31.10.2019 on the prayer of the appellant time was extended till 15th November 2019 to comply the direction given in the order dated 09.08.2019. But unfortunately on 12.02.2020 an order was passed dismissing the appeal for non compliance of the direction given in the order dated 07.08.2019 and the time extension allowed by order dated 31.10.2019. It is submitted that the appellant had properly complied the direction within the time stipulation i.e before 15.11.2019. It has also been stated that by order dated 07.08.2019 and 31.10.2019 though this tribunal had directed the respondent not to take any coercive step the respondent attach the bank account of the appellant which laid to filing of the writ application before the Hon'ble High Court of Delhi and the Hon'ble High Court by order dated 06.11.2019 allowed 6 weeks time to the appellant to make the pre deposit as directed by this tribunal. Accordingly on 15.01.2020 and 16.01.2020 the appellant made deposit of Rs. 2500000 and 5,00,000/- respectively through Syndicate Bank Delhi. But inadvertently the order of dismissal was passed which would substantial affect the interest of the appellant unless the dismissed appeal is restored to file.

The appellant has also filed a certificate obtained from the concerned bank showing deposit of the amount as stated above.

In reply the Ld. Counsel representing the respondent submitted that the appellant has of course made the deposit but not in the account meant for the pre deposit u/s 70 of the Act. Thereby he supported the order of dismissal.

Having heard the submissions of the counsel and perusal of the record it clearly appears that the appellant made the mistake in depositing the amount in an account not meant for the pre deposit u/s 70 of the Act. But that will not amount to non compliance of the direction by the appellant. Giving the liberty to the respondent to transfer the deposit into the proper account it is held that the application for the restoration made by the appellant merits consideration. The application is accordingly allowed. The appeal

which was dismissed for default is hereby restored to its original no.
Call on 19/03/2021 for filing of reply by the respondent.

Sd/-
Presiding Officer