

**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-1/47/2021

M/s. Gulmarg Ice Factory & Cold Storage

Appellant

VS.

RPFC, Delhi (North)

Respondent

ORDER DATED:- 24.02.2022

Present:- Shri Sandeep Sharma, Ld. Counsel for the Appellant.
Shri Avnish Singh, Ld. Counsel for the Respondent.

The matter has been listed today for compliance of the direction given by order dated 20.01.2022 in respect of the application filed u/s 70 of the Act by the appellant. In that order the tribunal had directed the appellant to deposit 30% of the assessed amount within 4 weeks from the date of this order and for that reason it was listed today for compliance by the appellant.

The appellant on 18.02.2022 filed an application to waive the amount of pre deposit on the ground mentioned in the petition. A copy of the order passed by the Hon'ble High Court of Delhi in O.M.P (EFA) (COMM) 7/2021 has been annexed alongwith the petition filed. Copy of the petition being served the Ld. Counsel for both the parties participated in the hearing which was taken up through VC.

The Ld. Counsel for the appellant submitted that in the above mentioned case, the Hon'ble High Court have directed the judgment debtors No. 2 and 3 not to alienate/transfer or create any third party interest in respect of their movable or immovable properties without prior permission of the court. In the said proceeding by order dated 11.11.2021 the Hon'ble High Court have further ordered that judgment debtor no.3 Mr. Prem Chand Garg is the only son of judgment debtor no.4 Har Narain Aggarwal who is dead. Prem Chand Garg being a party, no other legal heir of judgment debtor no.4 is to be brought on record. In that view of the order passed by the Hon'ble High Court Mr. Prem Chand Garg who is the appellant of the present appeal being the proprietor of Gulmarg Ice Factory and Cold Storage cannot alienate any amount of money towards compliance of this direction given by this tribunal in the order dated 20.01.2022 which would be in violation of the Courts order and make him liable for contempt.

In reply the Ld. Counsel for the respondent took serious objection and submitted that the orders passed by the Hon'ble High Court as referred by the appellant has nothing to do with the present proceeding as that is in respect of a different proceeding.

On hearing the submissions and on perusal of the petition it is observed that the appellant instead of complying the direction given by this tribunal in order dated 20.01.2022 has filed the present petition with an intention of delaying the compliance having full knowledge of the fact that the order referred by the appellant and passed by the Hon'ble High Court is with regard to a litigation between Bank of Baroda vs. Little Rose General Trading LLC and others wherein Mr. Prem Chand Garg is one of the judgment debtors. Perhaps to secure the right of the creditors the said order has been passed by the Hon'ble High Court. But the present proceeding is between M/s Gulmarg ice factory/cold storage vs. APFC. Gulmarg Ice Factory and Little Rose General Trading are two separate commercial entities and Mr. Prem Chand Garg may be the proprietor/partner of both the establishments. That doesn't mean that any order passed in respect of one establishment will bind the other establishment merely because a common individual is the proprietor/partner of both the establishment. From the circumstances it is clearly evident that the appellant instead of complying the direction given in the order dated 20.01.2022 has tried to buy time by filing this application. The application is held devoid of merit and rejected and for non compliance of the direction given in the order dated 20.01.2022 the appeal stands dismissed.

Presiding Officer