

+ A.A.P. 15/2008 & IA 9089/2008

AJIT MITTAL

..... Appellant

Through Mr.P.B.Dewan and Mr.Vinod Khera,
Advocates

versus

HEAT EXCHANGE(P) LTD

..... Respondent

Through none

CORAM:

HON'BLE MS. JUSTICE HIMA KOHLI

% ORDER
05.09.2008**IA No.10805/2008 (by the appellant u/O IX R 4 CPC)**

The present application is filed by the appellant praying *inter alia* for recall of the order dated 25.8.2008 by which the appeal was dismissed in default as none appeared on behalf of the appellant. Counsel for the appellant states that due to bonafide inadvertence, the date of hearing was noted as 28.8.2008, instead of 25.8.2008. As a result, none appeared on behalf of the appellant on the said date. It is stated that the absence of the counsel for the appellant on 25.8.2008 was bonafide.

Having regard to the averments made in the application, particularly paras 2 to 4 thereof, just and sufficient cause has been

shown by the appellant for seeking recall of the order dated 25.8.2008. The application is allowed and the order dated 25.8.2008 is recalled. The appeal is restored to its original position.

The application is disposed of.

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During the course of the arguments, counsel for the appellant concedes that the present appeal filed by the appellant against the order dated 11.2.2008 passed by the learned Arbitrator is not appealable as contemplated under Section 37 of the Arbitrator and Conciliation Act, 1996. He therefore seeks leave of the Court to withdraw the present appeal. Leave as prayed for is granted.

The appeal and the application are dismissed as withdrawn.



HIMA KOHLI, J

SEPTEMBER 05, 2008
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