IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

WRIT PETITION NO. 2522 OF 2015

Tree House Education &
Accessories Ltd and Another. ..Petitioners.
Versus
State of Maharashtra & Others. ..Respondents.

Mr. Shirish Gupte, Senior Advocate with Mr. Ashok Goel i/b Surin Usgaonkar for the Petitioners.
Mr. J. P. Yagnik, learned APP for the State.

Coram : RANJIT MORE &
SMT. ANUJA PRABHUDESSAI, JJ.
Date : **July 8, 2015**.

P. C. :

1. Rule. Rule made returnable forthwith. By consent, taken up for final disposal.

2. The petition is filed for following reliefs :

> "(a) that this Hon'ble Court be pleased to exercise its powers under Articles 226 and 227 of the Constitution of India and may be pleased to issue a writ of certiorari or a writ in the nature of certiorari or any other writ, directions and orders, calling for the records pertaining to C.R.No.84 of 2014 pending with the Respondent No.2 and thereafter looking to its legality and validity set aside, quash an cancel notice dated 19th May 2015 (Exhibit- I hereto).
>
> (b) That this Hon'ble Court be pleased to issue a writ of mandamus or a writ in the nature of mandamus or any other writ, directions and orders under Article 226 and 227

> of the Constitution of India, ordering and directing Respondent No.1 and 2 to cause appropriate notice and/or writing addressed to Respondent No.3 de-freezing the Petitioner's Account No.06672000000033, maintained with Respondent No.3."

2. It is the case of the Petitioner that on 24th October 2012, they placed orders with one M/s. Mahavir Corporation for purchase of plywood and BTC Wood. The consideration amount fixed was Rs.1,30,17,109/- and under the agreement, 50% was to be paid in advance. Accordingly, on 2nd and 6th November 2012 the Petitioner paid an amount of Rs.65,10,000/- to said M/s. Mahavir Corporation towards the advance. The payment was made through bank RTGS mechanism. Subsequently, said M/s. Mahavir Corporation informed the Petitioner that they are unable to supply the goods and fulfill their obligations. The Petitioner, therefore, by their letter dated 7th December 2012 cancelled the purchase order and sought refund of the amount already paid by way of advance. Between 16th March to 26th March 2013, said M/s. Mahavir Corporation refunded an amount of Rs.65,10,000/- by transferring the said amount to the Petitioner's bank account by Bank RTGS mechanism. By the letter dated 19th May 2015 Office of the Economic Offences Wing, Crime Branch, CID, Mumbai informed the Petitioner's banker, namely, Kotak Mahindra Bank - Respondent No.3 herein that investigation in CR No.84/2014 registered with EoW in connection with fraud is under investigation. Further banker was requested to debit

freeze the Petitioner's bank account bearing No.06672000000033. In pursuance of this notice, Respondent No. 3 wrote a letter to the Petitioner on 1st June 2015 informing that their bank account has been debit freezed.

3. Perusal of the aforesaid notice of the EoW shows that the Petitioner's bank account is freezed to the extent of Rs.28 lacs. Learned Counsel appearing for the Petitioner makes a statement that the Petitioner is ready and willing to deposit this amount in this Court pending investigation of CR. No.84 of 2014 registered with EoW.

4. Mr. Yagnik, learned APP for the State having taken instructions from Mr. Adhikari, API from EoW, Mumbai states that if the Petitioner's bank account is de-freezed to the extent of Rs.28 lacs and the Petitioner is ready and willing to deposit in this Court said amount of Rs.28 lacs, then, EoW does not have any objection to de-freeze the Petitioner's bank account.

5. In view of the concession given by learned APP for the State and in view of the statement made by learned Counsel appearing for the Petitioner, we dispose of the petition with following directions :

1] Respondent No.3 – Bank is directed to prepare a demand draft of Rs.28 lacs from the the Petitioner's

Account with them in the name of Registrar (Judicial) of this Court and hand it over to the Petitioner. The Petitioner shall deposit the said DD with the Registrar (Judicial) of this Court. This exercise be carried out within three weeks from today. Registrar (Judicial) shall invest the said amount in the FDRs of any nationalised bank initially for the period of three years and renew the same on year to year basis.

2] Once above compliance is made, the Petitioner's above-mentioned bank account stands de-freezed.

3] The deposit of above amount shall be governed by the outcome of investigation in CR No. 84 of 2014.

[SMT. ANUJA PRABHUDESSAI, J.] **[RANJIT MORE, J.]**