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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 2450/2016**

M/S ALLIED PERFUMERS PVT. LTD. & ORS Petitioner

**Represented by: Mr.Anil Airi, Ms.Roopa Dayal,
Mr.Saeed Husain, Advs.**

versus

BANK OF BARODA & ORS

..... Respondent

**Represented by: Mr.R.P.Agarwal,
Ms.Priyadarshini Verma, Adv.
for R-1.
Mr.Rajiv Kapur, Adv. for R-3.**

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE MUKTA GUPTA

ORDER

21.03.2016

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CM 10485/2016

Exemption allowed subject to just exceptions.

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1. Learned counsel as above appear for R-1 & R-3. But the writ petition can be heard for disposal without serving R-2, R-4 and R-5, all of which are banks, for the reason it is not in dispute that Bank of Baroda (R-1) was the lead bank in taking action under Section 17 of Recovery of Debts Due to Banks and Financial Institutions Act, 1993.

2. OA No.203/2013 filed by Bank of Baroda as the lead bank with other joining in the action, has been disposed of by an order dated August 07, 2015. Sum decreed is ₹220,84,63,604/-.

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3. Appeal filed before DRAT was accompanied by an application seeking waiver of 75% of the sum decreed. Indisputably DRAT has the power to reduce or even waive the condition of the deposit.

4. On November 02, 2015, DRAT reduced the sum to be deposited to 25% of the amount determined; granting six weeks time to make the deposit. Matter was adjourned to December 16, 2015 to oversee compliance of the orders passed.

5. Compliance was not made with the order by December 16, 2015. Proceedings were adjourned for December 23, 2015, when impugned order was passed. It reads as under:

“Counsel for the appellant states that no deposit has been made. The counsel further states that yesterday he intended to file an application for review of order passed by this Tribunal, but the Registry did not accept the same on the ground that the documents were required to be filed two days in advance.

While adjourning the case on 16th December, 2015 this Tribunal had already observed that in case the deposit was not made till that day, the appeal shall automatically stand dismissed as not maintainable. Since, no deposit has been made, the appeal already stands dismissed being not maintainable.”

6. On December 16, 2015, copy of the order not being before us, it is apparent that the Appellate Tribunal passed a peremptory order observing that if deposit was not made the appeal shall automatically stand dismissed as not maintainable.

7. As recorded in the order dated December 23, 2015, the petitioner had filed an application seeking review of the order dated November 02, 2015. The review application was not listed by the Registry before the DRAT.

8. It is trite law that no Court or Tribunal can pass a peremptory order

denuding it the jurisdiction which is vested in it by law. If a power of review is conferred upon a Tribunal by law, no peremptory order can negate said mandate of law.

9. Under the circumstances we set aside the order dated December 23, 2015 and direct DRAT to decide the review application filed by the petitioner concerning the order dated November 02, 2015.

10. Inward No.607/2015 in OA No.203/2013 is accordingly restored before DRAT.

11. Copy of this order be given dasti to learned counsel for the parties.

12. We direct Inward No.607/2015 to be listed by the Registry of DRAT before DRAT for directions on March 28, 2016.

13. No cost.

CM 10484/2016 (stay)

Dismissed as infructuous.

PRADEEP NANDRAJOG, J.

MUKTA GUPTA, J.

MARCH 21, 2016
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