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

+ CRL.L.P. 425/2014

R K TANDON

..... Petitioner

Through : Mr. Vibhor Bagga, Adv.

versus

KANEGRADE FLAVOURS & INGREDIENTS

PVT LTD & ORS

..... Respondents

Through : Mr. Kumar Mihir, Adv.

CORAM:

HON'BLE MR. JUSTICE A.K. PATHAK

ORDER

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09.11.2016

Learned counsel for the respondents has handed over demand draft no.078086 dated 24th October, 2016 for ₹77,000/- favouring petitioner R. K. Tandon drawn on HDFC bank, Udyog Vihar Branch, Gurgaon to petitioner's counsel towards full and final settlement of all the claims of petitioner involved in cheque in question.

It is noted that the respondents had taken a plea before the trial court that demand draft no.942157 dated 10th September, 2008 for ₹76,871/- favouring petitioner R. K. Tandon drawn on ICICI Bank, Sector-21, Gurgaon was sent to petitioner through courier, even prior to issuance of notice under Section 138 of Negotiable Instruments Act. As per petitioner,

the said demand draft was never received by him. On the last date of hearing the learned counsel for the petitioner had pointed out that the demand draft has not been tendered for encashment and the amount of the said demand draft is still lying with ICICI Bank, Sector-21, Gurgaon. In view of this statement, respondents were granted liberty to approach the issuing bank and get the fresh demand draft issued. Learned counsel for the respondents submits that ICICI Bank did not issue fresh demand draft on the ground that such a demand draft could be issued only on the application of the petitioner.

It is noted that said demand draft was issued by the ICICI bank in the year 2008 and its validity has already been expired long ago. The said demand draft has not been tendered for encashment and in any case, is to be treated as cancelled since petitioner is not claiming any amount thereunder. Accordingly, Manager, ICICI Bank, Sector-21, Gurgaon is directed to treat the said demand draft as cancelled and release the amount to respondents forthwith.

Petition is disposed of in the above terms.

Dasti.

A.K. PATHAK, J.

NOVEMBER 09, 2016/dk