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

DECIDED ON : 18th MAY, 2016

+ **CRL.A.482/2016**

M/S.SHIVALI CONSTRUCTIONS PVT.LTD. Appellant

Through : Mr.R.K.Hando, Advocate with
Mr.Arvind Mohan & Mr.Aditya
Chaudhary, Advocates.

Versus

JOINT DIRECTOR, ENFORCEMENT DIRECTORATE,
LUCKNOW Respondent

Through : Mr.Amit Mahajan, CGSC with
Mr.Kunal Dutt, Advocate.

**CORAM:
HON'BLE MR. JUSTICE S.P.GARG**

S.P.GARG, J. (Oral)

CRL.M.A.No.8236/2016 (Exemption)

1. Exemption allowed subject to all just exceptions.
2. The application stands disposed of.

CRL.A.482/2016 & CRL.M.A.No.8235/2016 (Stay)

1. The instant appeal has been preferred by the appellant to challenge the legality and correctness of an order dated 11.05.2016 of the learned Tribunal whereby status quo order dated 27.04.2016 was vacated.
2. I have heard the learned counsel for the parties and have examined the file.

3. Provisional Attachment Order No.03/2015 attaching the property of the appellant was passed on 23.09.2015. Adjudicating Authority confirmed the provisional attachment order on 24.02.2016. In the appeal preferred before PMLA Tribunal, along with application for stay, vide order dated 27.04.2016, status quo order was granted. Response to the application for stay was filed by the respondent and it was informed that the appellant had mentioned wrong facts in the stay application besides filing a wrong affidavit intentionally. Prayer was made to vacate the status quo order dated 27.04.2016. Learned Tribunal by the impugned order vacated the status quo order.

4. Order dated 11.05.2016 reveals that appellant's counsel Mr.R.K.Handoo, Advocate accepted the mistake and informed that due to a computer mistake / clerical error, portion of the stay application contained certain facts not relevant to the case. He sought Tribunal's indulgence to substitute / replace the stay application. The Tribunal was of the view that factual averments contained in the stay application were not pertaining to the subject-case. The appellant was given liberty to file rejoinder to the response of the respondent. At the same time, the status quo granted vide order dated 27.04.2016 was vacated. The matter was listed for 13th July, 2016.

5. Apparently, the status quo order dated 27.04.2016 has not been vacated on merits. It was only due to the fact that certain facts incorporated in the stay application which were not relevant to the subject matter were incorporated therein. The appellant has already been given liberty to file rejoinder to the response filed by the respondent and the matter is listed on 13th July, 2016.

6. During the course of arguments, learned counsel for the respondent stated that he has no objection if the status quo order is revived. He, however, urged to direct the appellant to move afresh stay application before the Tribunal for disposal on merits. To this, learned counsel for the appellant has no objection.

7. In view of the above, the appellant shall file afresh stay application within a week before the learned Tribunal. The response to it shall be filed by the respondent within next one week. Stay application, thereafter, shall be disposed of by the learned Tribunal on merits after hearing both the parties. In the meantime, status quo order in terms of order dated 27.04.2016 shall remain in operation till the disposal of the stay application.

8. The appeal stands disposed of in the above terms. Pending application also stands disposed of.

9. Copy of the order be sent to the learned Tribunal for information.

(S.P.GARG)
JUDGE

MAY 18, 2016 / tr