IN THE HIGH COURT OF BOMBAY AT GOA

WRIT PETITION NO.294/2017

M/s. Murphy Electronics Pvt. Ltd.,
having its Registered Office at
Sotiamol, Shiroda, Ponda Goa
H.O. at 58, Ranada Road,
Opp. S.B.I. Dadar (West),
Mumbai 400028, through its
Managing Director. …... **Petitioner.**

V/s.

1) EDC Ltd.,
A Government Company,
registered under the Companies Act, 1956,
having its registered Office at,
EDC house, 1st Floor, Dr. A.B. Road,
Panaji, Goa, through its
Dy. General Manager, Shri G.R. Shanbhag.

2) M/s. VVC Electronics,
a Proprietary concern of
Smt. Pramodini Shirodkar,
having Office at Plot No.462,
Shirodkar Industries, Sotiamol,
Shiroda, Ponda, Goa 403103,
and its Head Office at Anandalay,
58, Ranada Road,
Dadar (West) Mumbai 400 028. ….... **Respondents**.

Shri Iftikhar Agha, Advocate for the petitioner.

Shri D. Pangam, Advocate for the respondent No.1.

CORAM :- F.M. REIS, J.

Date : - 30th March, 2017.

ORAL JUDGMENT :

Heard Mr. I. Agha, learned Counsel appearing for the petitioner and Mr. D. Pangam, learned Counsel appearing for the respondent No.1.

2. Rule. Learned Counsel appearing for the respondent waives service. Heard forthwith, with the consent of the learned Counsel.

3. Briefly, it is the contention of the petitioner that respondent No.1 filed a Misc. Civil Application under Section 31 of the State Financial Corporation's Act, 1951 before the learned District Judge, North Goa, Panaji, *inter alia,* seeking direction to enforce the Corporate Guarantee offered by the petitioner herein in terms of Section 31(1)(aa) of the State Financial Corporation's Act and further to direct the respondent No.2 herein to repay to the respondent No.1 an amount of Rs.1,10,60,383/- as on 31/12/2002, with further interest thereon. After cross examination, the petitioner sought leave to produce certain documents by an application dated 1 February 2017, which was opposed by the respondent No.1 herein. The learned Judge,

by the impugned order dated 15 February 2017, rejected the application filed by the petitioner herein. The learned Judge, whilst passing the impugned Order, noted that by such application the petitioners are trying to produce the income tax returns for the years 1999-2000 and 2000-01, without disclosing therein that there is mention of closure of loan account with the respondent No.1. The learned Judge further noted that the petitioners are trying to produce the income-tax returns of the respondent No.2, as well as Supersonic Electronics which were never called upon during the cross examination. The learned Judge, as such, noted that the respondents are now trying to bring some documents which were never asked during the cross examination and consequently dismissed the application.

4. Mr. I. Agha, learned Counsel appearing for the petitioner has pointed out that such documents are very much necessary for deciding the matter in controversy, specially in view of the fact that the existence of such documents was an issue in the cross examination. It is further pointed out that the petitioner did not desire to lead any further evidence in support of such documents, but the documents will have to be taken on record.

5. On the other hand, Mr. D. Pangam, learned Counsel appearing for the respondent No.1 submits that such documents do not support any stand taken by the petitioner. In any event, the petitioners should not be allowed to delay the matter and lead any further evidence with that regard. The learned Counsel submits that in the event, the petitioners are allowed to produce such documents, the respondent No.1 does not wish to cross examine nor would lead any evidence in answer thereto.

6. Upon hearing the learned Counsel appearing for the respective parties, it is seen that the fact that some documents were sought during the cross examination, is not in dispute. The relevance of such documents would have to be examined based on appreciation of the evidence on record, at the final stage. In such circumstances, I find that the learned Judge was not justified to refuse leave to the petitioners to rely upon such documents. But, however, it is made clear that the documents will have to be taken on record and the petitioner shall not be permitted to lead any further evidence.

7. In view of the above, I pass the following :

ORDER

(I) The impugned order dated 15 February 2017 is quashed and set aside.

(II) The petitioners are granted leave to produce the documents mentioned in the application dated 1 February 2017, which shall be taken on record and marked Exhibits in the light of the observations made herein above.

(III) Rule is disposed of in the above terms.

(IV) No costs.

F.M. REIS, J.

ssm.