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

+ W.P.(C) 595/2017

M/S SHEENA OVERSEAS PVT. LTD. & ANR Petitioner

Through Mr. Muneesh Malhotra, Mr.Subodh
Pathak and Mr.Rohit Agarwal,
Advocates

versus

ASSETS CARE AND RECONSTRUCTION ENTERPRISES LTD.
..... Respondent

Through Mr.R.P.Agrawal, Advocate

CORAM:

HON'BLE MS. JUSTICE INDIRA BANERJEE

HON'BLE MR. JUSTICE ANIL KUMAR CHAWLA

ORDER

% **23.01.2017**

CM No.2745/2017 (Exemption)

Exemption allowed subject to all just exceptions.

Application stands disposed of.

W.P.(C) 595/2017 & CM No.2744/2017 (stay)

In this petition, the petitioner has challenged an order dated 12.1.2017 passed by the learned Debts Recovery Appellate Tribunal, New Delhi in Appeal No.288/2016 to the extent that the petitioner has been directed to furnish on or before 23rd January, 2017, i.e. today, a bank draft equivalent to the value of a cheque dated 30.11.2016 which has been dishonoured. The cheque dated 30.11.2016 has in the meanwhile been replaced by a cheque dated

31.1.2017.

By the order impugned, the learned Appellate Tribunal recorded “that the learned counsel for the respondents submits that respondents will not be in a position to comply with this direction for payment given by this Tribunal today within the time given to them.” The learned Appellate Tribunal however directed that necessary orders would be passed on the next date, if the direction for payment as given in the order dated 12.01.2017 was also not complied with by the respondents.

We do not deem it appropriate to interfere with the order of the learned Debts Recovery Appellate Tribunal except to the extent that necessary orders, possibly penal, are to be passed today, if the direction to submit bank draft is not complied with within today.

The writ petitioners, as recorded in the impugned order itself made it amply clear that they would not be in a position to submit a bank draft within 23.1.2017. It appears that the dishonoured cheque has been replaced by a cheque dated 31.1.2017. Action may be taken against the writ petitioners if the cheque of 31.1.2017 is dishonoured. Till such time as the said cheques are presented for payment, the

learned Tribunal will refrain from taking penal action against the writ petitioners. It is, however, made clear that any action may be taken against the writ petitioners after 2.2.2017, if the replaced cheque dated 31.1.2017 is not honoured.

Since no other cheque given by the writ petitioner in this writ petition is in issue, no order need be passed in respect of the same except to direct that the learned Tribunal/Appellate Tribunal ought proceed in accordance with law in respect of those cheques.

The writ petition is disposed of.

INDIRA BANERJEE, J

ANIL KUMAR CHAWLA, J

JANUARY 23, 2017/mw