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

+ **W.P.(C) 10976/2017**

**EDELWEISS ASSET RECONSTRUCTION
COMPANY LTD.**

..... Petitioner

Through: Mr Manish Bishnoi, Mr R. P.
Aggarwal, Mr Sunny Verma and Ms
Ila Haldia, Advocates.

versus

THE GOVERNMENT OF NCT OF DELHI Respondent

Through: Mr Ramesh Singh, Standing Counsel
for GNCTD with Mr Sandeepan
Pathak, Advocate for GNCTD.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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11.12.2017

CM Nos.44889-44890/2017

1. Allowed, subject to all just exceptions.

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2. Issue notice. Learned counsel for the respondent accepts notice.

3. The petitioner has filed the present petition, *inter alia*, praying as
under:-

“a) issue a writ of certiorari or a writ, order or direction in the
nature of certiorari and call for the record and
proceedings of the Respondent relating to the issuance of
Public Notice dated 22.08.2014 issued by the Respondent
in respect of the sealing of the property in question

namely Office Space at 710, V3S Ring Road Mall, Mangalam Place, Rohini, Delhi-110085: AND

- b) quash the said Public Notice dated 22.08.2014 and also any other order/orders issued by the Respondent regarding the sealing and attachment of the aforesaid property in question; And
- (c) direct the Respondent to de-seal the property in question namely Office Space at 710, V3S Ring Road, Mall, Mangalam Place, Rohini, Delhi - 110085 forthwith.”

4. The petitioner is an Asset Reconstruction Company registered under the Securitization and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002.

5. The petitioner states that Bank of India through its corporate branch at Shaheed Bhagat Singh, Connaught Place lent financial assistance to M/s CBS Energy System Pvt. Ltd., a company registered under the Companies Act, 1956. The aforesaid financial assistance was, *inter alia*, secured by equitable mortgage of the property bearing no.710, V3S Ring Road Mall, Mangalam Place, Rohini, Delhi (hereafter ‘the said property’). The said property belongs to Smt. Bhawna Singla and Smt. Tina Singla, who have also guaranteed the return of the amounts due to Bank of India.

6. It is stated that the said loan was not discharged by the borrowers/guarantors and was classified as a non-performing asset (NPA). Subsequently, the amount recoverable by Bank of India was assigned to the petitioner by an Assignment Deed dated 30.09.2013. In terms of the Assignment Deed, the petitioner became entitled to enforce the equitable mortgage on the said property.

7. The petitioner is desirous of enforcing its security interest but has been impeded in doing so since the said property has been sealed by the respondent.

8. Mr Ramesh Singh, learned counsel for the respondent submits that the respondent has the first charge on the assets of one M/s Vision Pipes Pvt. Ltd. (a registered dealer) in respect of dues payable by the said registered dealer under the Delhi Value Added Tax Act, 2004. He further claims that the said property was being used by the said registered dealer.

9. The respondent has sealed the said premises exercising the powers under Section 60 of the Delhi Value Added Tax Act, 2004.

10. Mr Singh fairly states that the respondent is only interested in securing its interest and would have no objection for de-sealing the premises, subject to the petitioner affirming that it has no relationship with the dealer in question (namely, M/s Vision Pipes Pvt. Ltd.); that the petitioner is a lawful mortgagee of the said property; that the petitioner is not in collusion with the registered dealer; and the petitioner indemnifying the respondent for any loss, damage or any action that may be brought against the respondent in the event any of the above statements is found to be incorrect.

11. Clearly, the petitioner can have no objection in furnishing the aforesaid statement. In the circumstances, this Court directs the petitioner to submit the aforesaid statement in the form of an affidavit to the respondent within a period of one week from today. The respondent shall de-seal the premises immediately on receipt of the aforesaid affidavit and shall remove

the goods of the dealer in question (M/s Vision Pipes Pvt. Ltd.) and in respect of which the respondent claims a charge.

12. The respondent shall hand over the possession of the premises to the petitioner before the Court of learned CMM.

13. The petition is disposed of with the aforesaid directions.

14. Order *dasti*.

VIBHU BAKHRU, J

DECEMBER 11, 2017
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