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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

NOTICE OF MOTION NO.55 OF 2018
IN
CENTRAL EXCISE APPEAL NO.86 OF 2017

Synise Technologies Ltd.	... Applicants
In the matter between	
Synise Technologies Ltd.	... Appellants
Vs.	
The Commissioner of Central Excise, Pune III Commissionerate, Pune	... Respondent

Mr. Makrand Joshi i/b. MAX Legal for the Applicants.
Mr. M. Dwivedi for the Respondent.

CORAM : A.S.OKA AND A.K. MENON, JJ.

DATE : 26th OCTOBER 2018.

P.C. :

1 Heard the learned counsel appearing for the applicants (appellant) and the learned counsel appearing for the respondent. The prayer is for modification of the order dated 22nd November 2017 passed in Notice of Motion No.1689 of 2017. Clauses (i) to (iv) of the said order dated 22nd November 2017 read thus :-

“(i) There will be interim relief in terms of prayer clause (a) subject to applicant complying with the following conditions:

(a) The applicant shall deposit with the respondent a sum of Rs.5 lakhs within a period of one month from today; and

(b) the applicant shall furnish the bank guarantee of any nationalised bank for securing a sum of Rs.15 lakhs to the satisfaction of Prothonotary and Senior Master of this Court within a period of six weeks from today.

- (iii) The respondent shall be heard by the Prothonoary and Senior Master before accepting the bank guarantee.
- (iv) On the failure of the applicant to comply with any of the aforesaid two conditions within the stipulated time, the interim relief shall stand vacated without further reference to the Court.”

2 The learned counsel appearing for the applicants pointed out that a sum of Rs.5 Lakh was deposited on 14th December 2017 as can be seen from counterfoil annexed as Exhibit – B to the affidavit in support. He has also tendered across the bar, a Service Taxpayer's Counterfoil which shows that a sum of Rs.15 Lakh has been deposited on 28th February 2018.

3 The order dated 16th February 2018 records that the applicants were willing to deposit a sum of Rs.15 Lakh instead of furnishing bank guarantee of a sum of Rs.15 Lakh.

4 Thus, instead of furnishing bank guarantee in the sum of Rs.15 Lakh as directed under the order dated 22nd November 2017, the applicants have deposited a sum of Rs.15 Lakh. The amount of Rs.15 Lakh is not deposited within a period of six weeks as specified in the order dated 22nd November 2017. But, it can be treated as substantial compliance. However, in view of deposit of the said amount, the order dated 22nd November 2017 needs modification. Accordingly, we dispose of the Notice of Motion by passing the following order :-

ORDER

- (i) In view of deposit of amounts of Rs.5 Lakh and 15 Lakh respectively by the applicants there will be interim relief in terms of prayer clause (a) of Notice of Motion No.1689 of 2017 and to that extent, the order dated 22nd

November 2017 is modified;

- (ii) Needless to add that the deposit of the aforesaid amounts will be subject to final outcome of the appeal;
- (iii) Notice of Motion is accordingly disposed of.

(A.K. MENON, J.)

(A.S.OKA, J.)