

\$~31

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

+ W.P.(C) 6857/2018

M/S SUDHIR POWER LIMITED

..... Petitioner

Through: Mr L. Badri Narayanan, Mr Yogendra
Aldak and Mr Karan Sachdev,
Advocates.

versus

UNION OF INDIA AND ORS.

..... Respondents

Through: Ms Maninder Acharya, ASG, Mr
Anurag Ahluwalia, CGSC with Ms
Tejaswita, Mr Sahil Sood, Mr Harshul
Choudary, Mr Viplav Acharya and
Mr Sudhir Kumar, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

06.07.2018

1. Ms Maninder Acharya, learned ASG states that she has instructions that the respondents shall withdraw the recovery notice, impugned in this petition, to await the judgment of the Supreme Court in *M/s Cummins Technologies India Pvt. Ltd. v. Union of India and Ors.: SLP(C) No. 28830/2017*. She states that as the question whether the SFIS Scheme would apply to Indian companies selling their services under allegedly foreign brands is a subject matter of consideration before the Supreme Court.

2. The learned counsel appearing for the petitioner states that in addition to the issue whether the SFIS would apply to the Indian companies. There are several issues including whether the respondent can effect recovery

proceedings in respect of licences that have been utilized, without taking recourse to Section 16 of the Foreign Trade (Development and Regulation) Act, 1992. This Court does not consider it necessary to address the aforesaid issues as all contentions including the above would be available to the petitioners as and when any steps are taken by the respondent to recover the amounts which are subject matter of the present petition.

3. The withdrawal of recovery notice is without prejudice to rights and contentions of the respondents including the right to issue a fresh recovery notice, if any. It is made expressly clear that this Court has not expressed any opinion on whether the respondents have any such right to issue such recovery notice(s).

4. Since the recovery notice is withdrawn, the present petition does not survive and is disposed of with liberty to the petitioner to revive the same, if the occasion so arises. The pending application also stands disposed of.

5. Order *dasti*.

VIBHU BAKHRU, J

JULY 06, 2018
MK