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

+ **W.P.(C) 3726/2019 and CM APPL. 17099/2019 (stay)**

ORIENTAL BANK OF COMMERCE Petitioner

Through: Mr.S.K.Sharma, Advocate.

versus

SAVERA IMPEX PRIVATE LIMITED AND ORS..... Respondents

Through: Mr.Deepak Khurana and Ms.Nishtha
Wadhwa, Advocates for R1.

+ **W.P.(C) 3727/2019 and CM APPL. 17101/2019 (stay)**

ORIENTAL BANK OF COMMERCE Petitioner

Through: Mr.S.K.Sharma, Advocate.

versus

SEASON IMPEX PRIVATE LIMITED AND ORS..... Respondents

Through: Mr.Deepak Khurana and Ms.Nishtha
Wadhwa, Advocates for R1.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

% **22.11.2019**

1. The present petitions are directed against the orders dated 15th March, 2019 passed by the DRAT in IA Nos.863 and 864/2018 filed in Miscellaneous Appeal Nos. 526 and 5277 of 2018 respectively by the Petitioner Bank seeking condonation of delay of 55 days in filing of the said

appeals against the two Respondents, to the extent that the delay has been condoned subject to the Petitioner paying Rs. 5 lakhs as costs. There is also a challenge to the orders dated 1st April 2019 passed by the DRAT dismissing IA Nos.329 and 330 of 2019 whereby the Petitioner sought review of the aforementioned orders dated 15th March 2019.

2. The Court notes that in the impugned order dated 15th March, 2019, the DRAT itself took note of the fact that the earlier advocate, who had been appearing for the Petitioner Bank before the DRT had taken ill, requiring the bank to engage another lawyer in his place. The DRAT also appears to have accepted that the delay was not mala fide or intentional and that in such instances “the delay should be condoned”. In fact, the operative portion states “finding no mala fide intention or delay having been caused, the delay in filing the appeal is condoned”.

3. In view of the above conclusion, the further direction by the DRAT that the Petitioner should pay Rs. 5 lakhs as costs to each Respondent in the appeals, (which are also Respondents before this Court) is inexplicable. In the considered view of the Court there was no occasion for imposition of such heavy costs on the Petitioner.

4. The impugned orders dated 15th March 2019 of the DRAT to the extent of requiring the Petitioner to pay Rs. 5 lakhs as costs each to the two Respondents is set aside, while maintaining the condonation of the delay in filing the appeals by the Petitioner. The impugned orders dated 1st April 2019 of the DRAT dismissing the applications for recall are also accordingly

set aside the petitions are disposed of. The pending applications also stand disposed of.

S. MURALIDHAR, J.

TALWANT SINGH, J.

NOVEMBER 22, 2019

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