

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

Date of decision: November 18, 2019

+ **CRL.A. 463/2019 & Crl.M.A. 4393/2019**

PEC LTD

..... Appellant

Through: Mr. Arvind Chaudhary, Advocate

Versus

M/S TRAXPO ENTERPRISES PVT LTD & ORS. .. Respondents

Through: Mr. Kuljeet Rawal & Mr. Vikram
Alung, Advocates

CORAM:

HON'BLE MR. JUSTICE BRIJESH SETHI

JUDGMENT

BRIJESH SETHI, J (oral)

Admit.

This appeal is directed against order dated 12th March, 2018 in proceedings under Section 138 read with Section 141 of the Negotiable Instruments Act, 1881.

Learned counsel for appellant submits that quashing of the aforesaid order is sought on the ground that appellant could not appear before the trial court for the reason that there was a change in the Authorised Representative of the company. It is submitted that earlier Mr. Kavinder Sharma was the Authorised Representative of the company and after his superannuation in the year 2014-15, Mr. Pinaki Narula was substituted as Authorised Representative, but he was unaware of dates of

hearing in the present case. Learned counsel for appellant further submits that appellant's absence before the trial court was neither deliberate nor intentional.

The aforesaid stand taken on behalf of appellant is disputed by learned counsel for respondents who has drawn attention of this Court to copy of various order sheets placed on record which reveal that appellant had failed to appear before the trial court on number of occasions despite number of opportunities given.

Heard.

Upon perusal of various orders sheets and impugned order of 12th March, 2018, this Court finds that on number of occasions, none had appeared on behalf of appellant before the trial court. However, for default in appearance, appellant can be put to terms. It is always in the interest of justice if the matter is decided on merits rather than being dismissed in default. Hence, subject to appellant paying cost of Rupees Twenty Five Thousand to respondents, the order dated 12th March, 2018 passed by the learned trial court is set aside. The parties are directed to appear before the trial court on 20th December, 2019 for further proceedings.

In terms aforesaid, this petition stands disposed of. Pending application is also disposed of as infructuous.

(BRIJESH SETHI)
JUDGE

NOVEMBER 18, 2019

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