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

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+ **W.P.(C) 8392/2017 & CM 34563/2017**

M/S A.H. WHEELER & COMPANY LTD. & ORS Petitioners

Through: Mr Rajiv Bansal, Senior Advocate
with Ms Ankita Manohar, Ms Parul
Pradhan, Advocates.

versus

BANK OF BARODA & ORS Respondents

Through: Mr Arun Aggarwal with Mr Anup
Kumar Pandey, Advocate for R-1.

CORAM:

JUSTICE S.MURALIDHAR

JUSTICE TALWANT SINGH

ORDER

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27.09.2019

1. The Petitioners have approached this Court against an interim order passed by the Debt Recovery Appellate Tribunal ('DRAT') on 8th September, 2017.

2. When the matter was first listed for hearing on 20th September, 2017, the following order was passed:

"1. The petitioners herein are aggrieved by the interim order dated 08.09.2017 passed by the learned DRAT in Miscellaneous Appeal No. 192/2015 whereunder after issuing a notice to show-cause to the petitioner No.1/Company and its Directors calling upon them to state as to why they should not be proceeded against for non-compliance of the order dated 29.05.2017 and on examining their stand, it was concluded that it is a fit case where the petitioner/Company and its Directors, Mr Arunjeet Banerjee and Mr Subir Banerjee and the Chairman-cum-Managing Director, Mr Alok Banerjee deserve

to be punished for disobedience of the directions issued by the Tribunal. Resultantly, the petitioner No.1/Company has been penalized with a penalty of Rs.5,00,000/- and the three Directors sentenced to civil imprisonment for a period of one week. The directions for the detention of the Directors in civil imprisonment have been kept in abeyance for a period of two weeks for them to approach the higher forum for appropriate relief. Further, the Directors of the petitioner No.1 have been directed to appear in person before the Tribunal on 26.09.2017.

2. Perusal of the memo of parties reveals that only the petitioner No.1/Company and Mr Alok Banerjee and Mr Subir Banerjee, Directors of the petitioner No.1/Company have filed the present petition. However, Mr Arunjeet Banerjee, Chairman-cum-Managing Director of petitioner No.1/Company, has not been arrayed as a co-petitioner.

3. Mr Bansal, Senior Advocate appearing for the petitioners, submits that there has been an error in drafting the petition due to which Mr Arunjeet Banerjee has not been arrayed as a co-petitioner. Leave is sought to file an amended memo of parties along with the Power of Attorney executed by the proposed petitioner No.4.

4. Needful shall be done within three days.

5. Issue notice. Mr Arun Aggarwal, Ms Praveen and Ms Usha Singh, Advocates accept notice on behalf of respondent No.1, respondent No.2 and respondent No.6 respectively. Counter-affidavits be filed within four weeks and rejoinder thereto, if any, be filed within four weeks thereafter.

6. Issue notice to the remaining respondents on the petitioner filing process fee by ordinary process and speed post, returnable before the Joint Registrar for completion of service and pleadings on 07.12.2017.

7. List in Court on 02.02.2018.

8. In the meantime, subject to the petitioner No.1/Company depositing the penalty of Rs.5,00,000/- with the Registrar of the DRAT by 25.09.2017 and further, subject to the remaining three petitioners depositing a similar amount each in this Court on or before 25.09.2017, the sentence of civil imprisonment imposed against petitioners No.2, 3 and 4 shall remain suspended, till further orders. Non-compliance of the aforesaid order would result in an automatic vacation of the stay order.

9. It is made clear that the learned DRAT shall be at liberty to hear the appeal on merits on 26.09.2017.

10. Dasti to the counsel for the parties under the signatures of the Court Master.”

3.Today, the Court is informed that pursuant to the above order, the Petitioner No.1 company had deposited a sum of Rs.5 lakhs with the Registrar of the DRAT and the remaining three Petitioners had deposited Rs.5 lakhs each in this Court.

4. It now transpires that the Misc. Appeal No.192/2015, in which the aforementioned interim order dated 8th September, 2017 was passed by the DRAT, has itself now been allowed by the DRAT.

5.The question is now about return of the monies deposited by the Petitioners. Mr Rajiv Bansal, learned Senior counsel for the Petitioners states that as far as return of sum of Rs.5 lakhs deposited by the Petitioner No.1 with the DRAT, an appropriate application will be filed before the DRAT for release of the amount.

6. As regards the remaining sum of Rs.15 lakhs deposited in this Court, it is directed that a sum of Rs.5 lakhs (together with interest if any thereon) be

released forthwith to Mr Arunjeet Banerjee by the Registry upon proper identification. The Court is informed that he is not one of the guarantors.

7. As far as sum of Rs.5 lakhs each deposited by Mr Alok Banerjee and Mr Sunil Banerjee in this Court, it is directed that the said amount would be subject to the orders passed by the concerned Recovery Officer, within a period of two weeks from today.

8.The petition is disposed of in above terms. The pending application is also disposed of. No costs.

S. MURALIDHAR, J.

TALWANT SINGH, J.

SEPTEMBER 27, 2019
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