IN THE HIGH COURT OF BOMBAY AT GOA

MISC. CIVIL APPLICATION NO. 85 OF 2020
IN
SERVICE TAX APPEAL NO. 1 OF 2014

Cobra Personnel & Intelligence Services, Thr. Its successor, Clayton Rudolfo Savio Fernandes ... Applicant

Versus

Commissioner of Customs, Central Excise & Service Tax, Panaji, Goa. ... Respondents

Mr. Rajiva Srivastava, Advocate for the Applicant.

Ms. Priyanka Kamat, Advocate for the Respondents.

Coram :- M. S. SONAK & M. S. JAWALKAR, JJ.

Date : 4th February, 2020.

ORAL ORDER

1. Heard Mr. Srivastava, the learned Counsel for the applicant and Ms. Kamat, the learned Counsel for the respondents.

2. By this Misc. Civil Application, the applicant, who is the appellant in Service Tax No.1 of 2014, seeks the following reliefs :

> *"(A) Applicant application for withdrawal of appeal may be granted.*
>
> *(B) Bank Guarantee and Bond furnished may be order to be released.*
>
> *(C) to pass such other order or orders that may be deemed fit ad proper in the interests of justice."*

3. Insofar as prayer clause (A) is concerned, there can be no difficulty to grant the same particularly since the applicant has already approached the designated Committee to seek the benefits under the Sabka Vishwas (Legacy Dispute Resolution) Scheme, 2019 (said *Scheme).*

4. Mr. Srivastava, learned Counsel for the applicant, pointed out that one of the pre-conditions of availing such benefits of said scheme is to withdraw pending matters before the High Court.

5. Accordingly, leave is granted to withdraw the appeal.

6. Insofar as prayer clause (B) is concerned, the same cannot be granted. It is because the Bank Guarantee and the Bond was for the purpose of enabling the respondent to recover the amounts which they claim as due in the event the appeal is dismissed. Now that the appeal is being withdrawn, ordinarily, leave should have been granted to the respondents to encash the Bank Guarantee or enforce the Bond.

7. Mr. Srivastava, however pointed out, that provisional approval under the said scheme has already been issued and the designated Committee is proceeding further under the scheme.

8. In the aforesaid circumstances, we feel that the issue of discharge of Bank Guarantee and the Bond may be properly determined by the designated Committee itself. Mr. Srivastava states that the applicant will have no serious objection even if the designated Committee orders the encashment of the Bank Guarantee for the purposes of appropriating the amount guaranteed thereby towards the settlement under the said scheme.

At this stage, we leave all these matters to the decision of the designated Committee itself. Based upon the decision of the designated committee, the parties will have liberty to apply to this Court for appropriate orders in relation to the Bank Guarantee and the Bond so furnished. Until such orders are made, however, the Bank Guarantee and the Bond shall be continued by the applicant.

9. Accordingly, the Service Tax Appeal no.1 of 2014 is disposed off as withdrawn with directions as aforesaid in relation to the Bank Guarantee and the Bond. Misc. Civil Application No.85 of 2020 is also disposed off.

10. All concerned to act on the basis of the authenticated copy of this order.

M. S. JAWALKAR **M. S. SONAK, J.**

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