

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

**INTERIM APPLICATION NO. 01 OF 2020
IN
APPEAL NO. 365 OF 2017
IN
COMPANY PETITION NO. 03 OF 2011**

Sikkim Tobbaco Ltd. And others ..Applicants

IN THE MATTER BETWEEN

Golden Tobacco Limited ..Appellant.

Versus

Sikkim Tobbaco Ltd. And others ..Respondents

Mr. Meit Sampat a/w. _____ Ruchi Gandhi i/b. Little & Co. for Appellant.

Ms. Leena Patil for Respondent Nos.1 to 3.

**CORAM : K. K. TATED &
SARANG V. KOTWAL, JJ.
DATED : 02nd MARCH, 2020.**

PC :

1. Not on board. At the request of learned advocate for Applicant – Respondent company the matter is taken on board for urgent orders.

2. Learned Counsel Mr. Sampat appearing on behalf of the appellant submits that he is ready with the matter. Hence,

by consent of both the parties, matter is taken for hearing.

3. By this interim application, the applicant is seeking to re-call the Minutes of Order dated 18/02/2020 passed by this court by consent of both the parties.

4. Learned counsel for the applicant submits that, by Minutes of order, this court has directed the Appellant company to make a payment of Rs.8,15,00,000/- (Rs. Eight Crores Fifteen Lakhs only) to the applicant on or before 18/08/2020. He further submits that, this court has already directed the appellant company to clear sum of Rs.2 crores immediately. He submits that, pursuant to the said Minutes of order, they have received two cheques of Rs.1 crores each dated 14/12/2019 and 15/01/2020. He submits that, thereafter they informed their client to collect the same from the advocate of the applicant. He submits that their client informed them that, instead of accepting the part payment, the appellant company shall deposit the entire amount with the court so that they can withdraw the entire amount. Hence, they have preferred the present application. He submits that, in the interest of justice, this Hon'ble court be pleased to re-call the order dated 18/02/2020 by which the Appeal No.365 of 2017 stood disposed of.

5. Learned counsel appearing on behalf of the appellant submits that, he has received instructions from his

client that, they are ready and willing to deposit sum of Rs.2 crores in the Registry of this court within a one week from today. He further makes a statement that the appellant is ready and willing to clear the remaining amount i.e. Rs.6,18,00,000/- on or before 18/08/2020. He further submits that his client is ready and willing to undertake to make said payment within time. He further submits that, his client is ready to accept the fact that, if there is any default on the part of the appellant, then the Appeal shall stand dismissed without referring back to the court and in that case the applicant shall recover entire balance amount by following due process of law i.e. by filing execution application. Considering these facts, following order is passed:

- a) The order dated 18/02/2020 passed by this court by way of Minutes of Order is re-called.
- b) The Appellant company to deposit sum of Rs.2 crores (Rs. Two Crores only) in the Registry of this court on or before 09/03/2020 with intimation to other side.
- c) If amount is deposited in time, the Prothonotary and Senior Master is

directed to invest the said amount in a Fixed Deposit in any Nationalized Bank up to 18/08/2020.

- d) Liberty is granted to the Respondent companies, if they so desire, to withdraw the said amount any time without furnishing any security but with intimation to other side.
- e) The Appellant company to deposit remaining amount of Rs.6,15,00,000/- (Rs. Six Crores Fifteen Lakhs only) in the Registry of this court on or before 18/08/2020 with intimation to other side.
- f) If there is any default on the part of appellant company to deposit said amount, in that case, the Appeal shall stand dismissed without referring back to the court and the Applicant can recover the said amount by following due process of law.
- g) If the amount is deposited in time i.e. before 18/08/2020, in that case, the

Applicants are entitled to withdraw the said amount without furnishing any security.

h) The Appeal stands disposed of accordingly.

i) No order as to costs.

j) Pending interim applications, if any, stand disposed of.

(SARANG V. KOTWAL, J.)

(K.K.TATED, J.)
