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

+ **FAO 171/2020 & CM APPL. 22435/2020**

BOSTON SCIENTIFIC INDIA PVT. LTD Appellant

Through: Ms. Shweta Bharti, Ms. Jyoti Kr.
Chaudhary, Mr. Ankit Jain and Mr.
Avinash Singh, Advocates.

versus

GLOWWIDE MEDICARE Respondent

Through: Mr. Vivekanandh, Advocate.

CORAM:

HON'BLE MR. JUSTICE NAJMI WAZIRI

ORDER

% **11.09.2020**

The hearing was conducted through video conferencing.

CM APPL. 22436/2020 (exemption)

1. Allowed, subject to all just exceptions.
2. The application stands disposed-off.

FAO 171/2020 & CM APPL. 22435/2020 (stay)

3. Issue notice.
4. The learned counsel named above accepts notice on behalf of the respondent.
5. At joint request, the appeal is taken up for disposal.
6. The impugned order dated 22.08.2020 was passed by the learned Commercial Court in OMP(I) (COMM.) No.134/2020, without notice and/or hearing the respondent-present appellant. The appellant had filed a caveat.

7. The learned counsel for the respondent submits that the present appellant was served a copy of the petition, prior to its listing. However, there is no mention of the same in the impugned order. It has stayed the execution of bank guarantees given to the appellant, as sureties to be invoked in terms of the agreement between the parties. Evidently, the order has been passed without hearing the affected party and the petition was disposed-off. The impugned order suffers from denial of natural justice. It is erroneous only for this reason and cannot be sustained. Accordingly, it is set aside.
8. The case is remanded to the learned Commercial Court, South-East District, Saket, Delhi, where the parties shall appear on Wednesday i.e. 16.09.2020. It shall be decided afresh, after duly hearing the parties. Noting stated in this order shall be deemed to be an adjudication on the merits of the case.
9. It is expected that till the next date of hearing by the learned Commercial Court, the appellant will not take any precipitate measures.
10. The appeal, alongwith pending application, is disposed-off in terms of the above.
11. The order be uploaded on the website forthwith. Copy of the order be also forwarded to the counsels through email.

NAJMI WAZIRI, J.

SEPTEMBER 11, 2020

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