

23.03.2022
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MAT 132 of 2022
With
I.A. No.CAN 2 of 2022

Emami Agrotech Limited
Vs.
Union of India & anr.

Mr. Arijit Chakraborty,
Mr. Rahul Dhanuka,
Mr. Harsh Chowdhury for the appellant.

Mr. Sujit Mitra ... for the respondent no.1.

Mr. Bhaskar Prosad Banerjee,
Mr. Sukalpa Seal ... for the customs.

Re: I.A. No.CAN 2 of 2022

We have heard Mr. Arijit Chakraborty, learned counsel appearing for the appellant and Mr. Bhaskar Prosad Banerjee, learned senior standing counsel for the respondent nos.3 to 5.

This application has been filed to modify the judgment and order dated 1st March, 2022 passed in MAT No.132 of 2022. The appellant / petitioner seeks for modification of the penultimate paragraph of the order by which we had directed that the bank guarantee furnished by the appellant / petitioner shall be kept alive till the order is passed by the concerned authority in terms of the direction issued. The learned counsel for the appellant/petitioner would submit that in the event the authority decides

against the appellant/petitioner, then the bank guarantee should not be invoked by the authority as the appellant/petitioner has an alternative remedy of appeal before the appellate authority.

In our considered view, if this prayer is acceded, it would travel far beyond the order and direction issued in the appeal. It goes without saying that in the event the appellant/petitioner is unsuccessful before the authority, it is at liberty to file an appeal before the appellate authority and in the interregnum i.e. before the expiry of the period of limitation for filing the appeal, the department is not expected to take any coercive action. Therefore, if at all the appellant/petitioner has any grievance at that point of time, we leave it open to the appellant/petitioner to work out its remedy in accordance with law.

With the above observations, the application stands disposed of.

Urgent photostat certified copy of this order, if applied for, be furnished to the parties expeditiously upon compliance of all legal formalities.

(T. S. Sivagnanam, J.)

(Hiranmay Bhattacharyya, J.)