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

\+ **EFA(OS) (COMM) 11/2024**

EMPLOYEES STATE INSURANCE CORPORATION

.....Appellant

Through: Mr Tamim Qadri, Advocate along with Mr Dinesh Kumar, SSO.

versus

M/S MUKESH AND ASSOCIATES .....Respondent

Through: Mr S. Santanam Swaminadhan with Mr Darsh Bansal, Advocates.

CORAM:
HON'BLE MR JUSTICE RAJIV SHAKDHER
HON'BLE MR JUSTICE AMIT BANSAL

O R D E R

% **05.08.2024**

[Physical Hearing/Hybrid Hearing (as per request)]

CM APPL. 44293/2024 ***[Application filed on behalf of the appellant seeking condonation of delay of 15 days in filing the bank guarantee]***

1. This is an application filed on behalf of the appellant seeking condonation of delay in complying with the order passed by the Court on 02.07.2024.

2. *Via* the said order, we had granted the applicant/appellant two (02) weeks to furnish a bank guarantee for Rs.10,71,67,225/-, along with interest.

3. Mr Tamim Qadri, learned counsel, who appears on behalf of the applicant/appellant, says that there has been some delay in presenting the bank guarantee in compliance with the direction issued *via* order dated 02.07.2024.

4. Issue notice.

4.1 Mr S. Santanam Swaminadhan, learned counsel, accepts notice on behalf of the non-applicant/respondent.

5. Accordingly, the bank guarantee for Rs.15,11,18,136/- shall be accepted by the Registry, if it is otherwise found complete in all respects.

6. At this stage, Mr Qadri bring to our notice a practice direction dated 25.06.2021 issued by the Court. The relevant part of the practice direction [which is adverted to below] reads as follows:

> *"(i) That henceforth, a clause of term shall be necessarily incorporated in every Bank Guarantee furnished by a party in this Court for release of the amounts deposited in the Court.* ***Such term shall be to the effect, that in case the Bank Guarantee is not renewed, at least ten days before the expiry of the Bank Guarantee, by the party at whose instance the Bank Guarantee has been furnished, the Bank shall, without any further demand by the beneficiary or reference to the party at whose instance the Bank Guarantee has been furnished, proceed to encash the Bank Guarantee and remit the amount thereunder to the beneficiary under the Bank Guarantee****."*

6.1 Mr Qadri says that he has instructions to convey to the Court that the applicant/appellant would be agreeable for being governed by the aforementioned practice direction.

7. Given this position, the matter will be placed before the learned Registrar General, who will convene a hearing amongst the representatives of the parties

as well as the concerned bank i.e., State Bank of India (Main Branch), Forex Division, 6th Floor, 11 Parliamentary Street, New Delhi-110001 [hereafter referred to as "SBI"].

8. The learned Registrar General will either have SBI issue an amendment to the subject bank guarantee in line with aforementioned practice direction or record the consent of the authorized representative of the concerned bank i.e., SBI to the above mentioned practice direction.

9. We may note that, even according to the counsel for the parties, the necessary leeway is already available in clauses 4 and 5 of the subject bank guarantee that has been presented to the Court. In other words, the above step is envisaged as a measure of abundant caution.

10. The application is disposed of in the aforesaid terms.

11. List the matter before the learned Registrar General on 07.08.2024.

RAJIV SHAKDHER, J

AMIT BANSAL, J

AUGUST 5, 2024 /tr

Click here to check corrigendum, if any