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

WRIT PETITION NO.520 OF 2024

Shree Salasar Cargo Movers

.. Petitioner

Versus

The Union of India

.. Respondent

Mr. Mutahhar Khan a/w Ms. Malaika Castellino i/by Mr. Rajesh O. Gupta for petitioner.

Mr. Chandrakant Chavan for respondent.

**CORAM: ALOK ARADHE, CJ. &
M. S. KARNIK, J.**

DATE: 8th APRIL, 2025

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ORAL ORDER [Per Chief Justice]:

Rule. Rule is made returnable forthwith. With the consent of the learned counsel for the parties, heard finally.

2. In this writ petition, petitioner has assailed the validity of the order dated 17th October, 2023 passed by the Divisional Railway Manager (Commercial) Central Railway, CSMT, Mumbai, by which the appeal preferred by the petitioner to refund EMD amount of Rs.5,60,275/- has been dismissed.

3. Facts giving rise to filing of this petition, briefly stated, are that the petitioner is a proprietary concern and is primarily engaged in the business of providing logistic services, including availing leasing space in trains operated by the Indian Railways. The respondent floated a tender sometime in August, 2023 for granting lease rights in respect

of parcel space in SLR-F2 in Train No.11057 (Amritsar Express) for a period of two years. The petitioner on 21st August, 2023 submitted the bid. However, the bid submitted by the petitioner was rejected and the earnest money of Rs.5,60,275/- deposited by the petitioner has been forfeited.

4. Under Clause 25.1 and 25.2 of the Notice Inviting Tender, the petitioner has the remedy of filing appeal. The petitioner filed an appeal before the DRM, CSMT, Central Railways, Mumbai, on 28th August,2023. However, the appeal preferred by the petitioner has been dismissed by an order dated 17th October, 2023. In the aforesaid factual background, the petitioner has approached this Court.

5. Learned counsel for the petitioner submits that the order passed by the Appellate Authority is a non-speaking order and no reasons have been assigned by the Appellate Authority for dismissing the appeal preferred by the petitioner. It is submitted that impugned order dated 17th October, 2023 be set aside and the matter be remitted back to the Appellate Authority to decide the appeal afresh by a speaking order.

6. On the other hand learned counsel for the respondent submitted that the suitable order in accordance with law by assigning reasons shall be passed by the Appellate Authority.

7. We have considered the rival submissions made on both the sides and perused the record. The Appellate Authority has dismissed the appeal preferred by the petitioner in the following terms:

"Sri Salasar Cargo Movers

5/10, Malharrao Wadi, Dadi Seth Agairy Lane

Kalbadevi, Mumbai-400 002.

Sub: Forfeiture of SD/EMD related to E-Auction of 11057 F2 SLR.

Ref: Your Office letter dated 30.08.2023 & 15.09.2023 (enclosed)

With reference to above subject matter, You are hereby informed that Competent Authority – Divisional Railway Manager, CSMT/Mumbai has **REGRETTED** your appeal for refund of EMD amount of Rupees 5,60,275/- paid by Salasar Cargo Movers in E-Auction of 11057 F2 SLR on 21.08.2023 as per policy.

(Deepak sharma)

DCM (Goods)

-/ DRM© CSMT"

8. It is well settled legal proposition that the reasons are the heartbeat of the conclusions and the requirement of assigning the reason is part of principles of natural justice **[See: Secretary and Curator, Victoria Memorial Hall vs. Howrah Ganatantrik Nagrik Samity & Ors., (2010) 3 SCC 732 and Basudev Dutta vs. State of West Bengal & Ors., 2024 SCC OnLine SC 3616].**

9. The impugned order is bereft of reasons and exhibits non-application of mind. Even under Clause 25.2, the Appellate Authority is required to consider the merits of the case as well as documentary evidence, if any, submitted by the party filing an appeal. Thus, Clause 25.2 also mandates the Appellate Authority to assign reasons. Therefore, the impugned order cannot be sustained. It is quashed and set

aside. The matter is remitted to the Appellate Authority to decide the appeal afresh, after affording opportunity of hearing to the petitioner, by a speaking order within a period of two months from today.

10. Accordingly, writ petition is disposed of.

(M. S. KARNIK, J.)

(CHIEF JUSTICE)