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SLP(C)No. 7266 OF 2005

ITEM No. 11

Court No. 1

SECTION IX
A/N MATTER

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

I.A. No. 5 in

Petition(s) for Special Leave to Appeal (Civil) No.7266/2005

DYNAMIC LOGISTICS PVT. LTD.

Petitioner (s)

VERSUS

ICICI BANK LTD. & ORS.

Respondent (s)

(For Directions and office report)

Date : 09/05/2005 This Petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI
HON'BLE MR. JUSTICE G.P. MATHUR

For Petitioner (s)Dr. A.M. Singhvi, Sr. Adv.
Mr. Syed S.H. Rizvi, Adv.

For Respondent (s)Mr. R.F. Nariman, Sr. Adv.
Mr. Prateek Sakseria, Adv.
Ms. Rajshri Bhat, adv.
Ms. Sangeeta Panicker, Adv.
Mr. R.R. Kumar, Adv.
Mr. S. Chatterjee, Adv.
Mr. Bharat Sangal, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

The appeals stands disposed of in terms of the signed order.

No order as to the costs.

(Ajay Kr. Jain)

(Radha R. Bhatia)

Court Master

Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. 3194 OF 2005
(Arising out of SLP(C.) No. 7226 of 2005

Dynamic Logistics Pvt. Ltd.

....

Appellant

Versus

ICICI Bank Ltd. & Ors.

....

Respondent

O R D E R

Leave granted.

With the consent of the learned counsel for the parties, the appeal is heard finally. An appeal preferred against a decree passed by Debts Recovery Tribunal (DRT), Mumbai is put in issue by filing an appeal before the Debts Recovery Appellate Tribunal (DRAT), Mumbai. On 27th February, 2004, the DRAT directed the appeal being entertained for hearing subject to deposit of 30% of Rs.23,42,91,487/- within eight weeks from the date of the order. It appears that compliance was not made and the appellant approached the High Court of Judicature at Bombay. The High Court declined to extend the time for compliance with the order of the DRAT. Feeling aggrieved the appellant has come up to this Court by filing this appeal by special leave.

According to the appellant the compliance was made by depositing the amount in the following manner :-

- 1.Rs.1,01,11,000.00 on 5.7.2001 and 8.5.2002, paid towards TS on two occasions.
- 2.Rs. 1,10,00,000.00 on 2.12.2004, fixed deposits in ICICI's custody.
- 3.Rs.2,00,00,000.00 on 2.3.2005 paid as per order of the High Court.
- 4.Rs.3,00,00,000.00 paid on 31.3.2005."

According to the learned counsel for respondent No. 1 the deposits so made do not amount to compliance with the order of the DRAT. It is pointed out that the first amount of Rs.1,01,11,000.00 was pursuant to an offer for one-time-settlement and the deposit relates to a date prior to the date of passing of the order by the Tribunal and therefore cannot be said to have been deposited in compliance with the order of the DRAT. As to the amount of Rs. 1,10,00,000.00, it is pointed out that the amount is lying in fixed deposit in the name of the appellant which cannot be liquidated except by the appellant's consent. As to the fourth item, it is pointed out that the payment is hedged by several terms and conditions and, therefore, does not amount to an unconditional deposit.

In response, the learned counsel for the appellant stated under instructions that so far as the first amount of Rs. 1,01,11,000.00 is concerned, the appellant shall within three days from today deposit the amount with the respondent No.1 by way of demand draft. As to the second amount of Rs.1,10,00,000.00, it is stated that the appellant shall give its consent in writing to liquidate the fixed deposits and appropriate the amount towards payment. As regards, the fourth amount, the learned counsel for the appellants states that all the conditions accompanying the payment are withdrawn and the amount may be treated to have been paid unconditionally. We record the statement of the learned counsel for the appellant, as stated hereinabove. The same shall be binding on the appellant.

The appellant shall appear before the DRAT within four weeks from today and having made the compliance, as aforesaid, satisfy the DRAT that the amount, as directed by it, in its order dated 27.2.2004 has been deposited. The delay, if any, in making the deposit shall stand condoned. If the DRAT feels satisfied that 30% of the amount, as directed by it, stands deposited then the appeal shall be entertained and heard on merits. If the amount so deposited, as stated hereinabove, does not amount to 30% as directed by the DRAT then the appeal filed before it shall stand dismissed.

The appeal stands disposed of in the above terms.
No order as to the costs.

.....CJI.
(R.C. LAHOTI)

.....J.
(D.M. DHARMADHIKARI)

.....J.
(G.P. MATHUR)

New Delhi
May 09, 2005