

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, ROUSE AVENUE,
DISTRICT COURT COMPLEX, DELHI.**

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

ATA No.D-1/09/2022

M/s. Automated Mail Processing Centre
India Post AMPC,

Appellant

VS.

APFC/RPFC, Delhi, West

Respondent

ORDER DATED:- 30.03.2022

Present:- Shri B.K Pandey, Ld. Counsel for the Appellant.

Shri Sandeep Vishnu, Ld. Counsel for the Respondent.

This order deals with two separate petitions filed by the appellant praying condonation of delay for admission of the appeal and waiver of the condition prescribed u/s 7 O of the Act directing deposit of 75% of the assessed amount as a pre condition for filing the appeal, for the reasons stated in the petitions.

Copy of both the petitions being served on the respondent, Learned Counsel Shri Sandeep Vishnu appeared and participated in the hearing.

Perusal of the office note reveals that the impugned order was passed on 07.07.2021 by the RPFC, Delhi(West), and the appeal has been filed on 17.01.2022. The office has pointed out about the delay in filing of the appeal. The learned counsel for the appellants

submitted that the appeal ,though has been filed after the prescribed period of 60 days, it is well within the period of limitation in view of the order passed by the Hon'ble SC in suomoto WPC No 3/20. He also submitted that the delay was never intentional but for the deadlock created by the outbreak of the pandemic. He thus submitted for condonation of delay and admission of the appeal pleading that the appeal involves valuable rights of the appellant who is none but a department of Government of India and if not admitted serious prejudice shall be suffered by the establishment..

The learned counsel for the respondent has raised several objections in the reply to the delay condonation petition. During course of argument he submitted that the lack of diligence on the part of the appellant is evident from it's pleadings and the impugned orders. He went on clarifying that the order u/s 7A was passed on 07.07.2021 and the establishment being aware of the provisions of Rule, with the sole intention of avoiding execution of the order has preferred this appeal after long lapse of time. The period of limitation on account of the prevailing circumstances has been extended by the Hon'ble SC upto February 2022 and for a further period of 90 days from 01.03.2022. The present appeal thus has been filed within that extended period of limitation. Hence the petition for condonation of delay is allowed.

On behalf of the appellant it has been submitted that the appellant establishment being a government department as per the government policy engages casual labours who are being paid minimum wage as per the government notification revised from time to time. The provisions of EPFO Act though not applicable to the establishment, the commissioner took a wrong view of the matter and made the assessment. Though, the basis of the inquiry was the complaint no such complainant was examined by the commissioner nor the basis of calculation was supplied to the establishment. The A/R for the establishment pointed out during inquiry that the causal labourers are paid remuneration on vouchers on the basis of hourly service rendered by them and thus, cannot be covered under the provisions of the Act. None of the submission made by the establishment was considered and the commissioner passed the non speaking order which is liable to be set aside. He also submitted that in the case of **Small Gauges Ltd &Others Vs. V P Ramlal APFC** decided by the Hon'ble High Court of Bombay, it has been held that unless the documents deposition and calculation forming basis of the order are made available to the establishment it cannot be said that the basic tenets of the principle of *audialterampartem* was followed.

Reliance is also placed in the case of **Kranti Associates** in which the Hon'ble Apex Court have held that the commissioner cannot pass the order on the basis of mathematical calculation as if Tax is assessed, without identifying the beneficiaries. The appellant thereby submitted that the impugned order suffers from patent illegality and the appellant has a fair chance of success. Insistence for the deposit in compliance of the provisions of sec 7-O of the Act will cause undue hardship to the appellant during this difficult time. He there by prayed for waiver of the condition of pre deposit on the ground that the Tribunal has the discretion to do so in the facts and circumstances of this case. He also submitted that the appellant is a Government Department having least chance of running away from the reach of Law and at the end of the hearing of the appeal, if the amount assessed is found payable, it will be paid.

In reply the learned counsel for the respondent, while supporting the impugned order as a reasoned order pointed out the very purpose of the Beneficial legislation and insisted for compliance of the provisions of sec 7-O by depositing 75% of the assessed amount. Learned counsel Mr. Sandeep Vishnu also cited the order passed by the Hon'ble High Court of Madras in the case of M/S JBM Auto System Pvt. Ltd VS RPFC, to submit that the Tribunal cannot grant waiver in a routine manner which will have the effect of defeating the very purpose of the Act.

Considering the submission advanced by the counsel for both the parties an order need to be passed on the compliance/waiver of the conditions laid under the provisions of sec 7-O of the Act. For considering the application filed u/s 7O the tribunal need to consider the period of default in respect of which inquiry was initiated. Here the inquiry is for the period from January/2017 to August/2019, and the amount assessed is 4,08,58,052/-. There is no mention in the order about the basis of the calculation arrived at. Without going to the other detail as pointed out by the appellant challenging the order as arbitrary, and at this stage of admission without making a roving inquiry on the merits of the appeal, it is felt proper to pass an order, taking into consideration the period of default, and the amount assessed. It is felt that the circumstances do not justify total waiver of the condition of pre deposit. But the ends of justice would be met by reducing the amount of the said pre deposit from 75% to 10%. Accordingly the appellant is directed to deposit 10% of the assessed amount within 8 weeks from the date of this order towards compliance of the provisions of sec 7-O of the Act by way FDR in the name of the Registrar CGIT initially for a period of one year with

provision for auto renewal. On compliance of the above said direction, the appeal shall be admitted and there would be stay on execution of the impugned order till disposal of the appeal. List the matter on 30/05/2022 for compliance of the direction failing which the appeal shall stand dismissed. The interim order of stay granted on the previous date shall continue till then. Both parties be informed accordingly.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 10(4)2017

M/s. Cross Country Hotel Ltd.
Through None for the Appellant

Appellant

Vs.

RPFC, Delhi(S)
Through Sh. Jai Kumar Sinha, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

Sh. Jai Kumar Sinha, the learned counsel for the respondent argued on the petition being assisted by Sh Rajesh Kumar, Mr Sidharth, Sh Sivnath Mahanta, Sh Rakesh Singh and others, who are the empaneled counsels of the Respondent department. On the other hand on behalf of the appellant Ms Akanksha Narang advanced her argument opposing the petition being assisted by advocates Sh Rajiv Arora, Sh S K Gupta, Sh Rajiv Shukla, Sh Manish Malhotra Sh Sailesh Kapoor and others who are the counsel in respect of other appeals in which similar petitions have been filed. The counsels, other than the advocate having power in a particular case were allowed to participate and assist since applications of similar nature have been filed in a number of cases involving similar question of fact and law. A common order can not be passed in respect of all the cases as the order to be passed is not likely to finally dispose off the litigation.

It has been stated in the petition that the Tribunal by order **dt 06.01.2017** has directed that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order. The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013)have held that

Para 36- " At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay in against the proceedings of a civil or criminal trial is operating, the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six

months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay is more important than having the trial finalized. The trial court where order of stay of civil or criminal proceeding is produced, may fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced.”

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

During course of argument, besides relying on the judgment of Asian Resurfacing referred supra, Sh Rajesh Kumar Advocate for the Respondent drew

the attention to the judgment of the Hon’ble High Court of Madhya Pradesh in the case of Rajmata Vijayraje Sciendia Krishi Vishwavidyalaya VS EPFO, wherein the Hon’ble court, in absence of a specific order extending stay, came to hold that the stay granted by the CGIT Lucknow stands vacated automatically in view of the judgment of Asian Resurfacing. The Respondent thereby insisted for vacation of the interim stay granted. On behalf the respondent the learned counsel also submitted that under Rule 21 of the Appellate Tribunal Rules the Tribunal may make such orders which is expedient to give effects to it’s orders or to prevent abuse of process and secure the ends of justice. Citing several other judgments of the Hon’ble SC , he submitted that EPF & MP Act being a social welfare legislation interpretation of the provision and decided principles of law should be made in a manner to extend the benefits of law to the weaker section of the society.

Argument on the petition was advanced by the counsel for the appellant who challenged the applicability of the order passed in Asian Resurfacing judgment to the appeals pending before the Tribunal. The main objection taken is that the order passed by the Hon’ble Appex Court ,on a plain reading clearly shows that the said order was with reference to the civil and criminal trial proceedings delayed and pending for long time on account of stay orders passed. The same has no applicability to the appeal pending before this Tribunal. Learned counsel Sh Rajib Arora citing the judgment of the Hon’ble High Court of Bombay in the case of Oracle Financial Services Software Ltd vs Dy Commissioner Income Tax, (WPC 542/2019 –order dt 23rd Feb 2019)submitted that the applicability of Asian Resurfacing Judgment passed in the context of civil and criminal proceedings pending before trial courts , can not be imported to the set of quasi judicial proceedings. He also placed reliance in the case of Commissioner of Central Goods & Services Tax vs Anmol Chlorochem (2019 (367) ELT 584 Guj) to submit that the Hon’ble High Court of Gujarat have held that the observation made by the Hon’ble SC can not be made applicable to a Tax Appeal as the said judgment was exclusively with reference to civil or criminal proceedings arising from a trial.

Sh S K Gupta the learned counsel, by referring to the observation made by the Hon’ble Bombay H C in the case of Oracle Financial services argued that when there is no allegation by the Respondent counsel that the delay in disposal of the appeal is attributable to the appellant, the prayer for vacation of stay is not maintainable. He also submitted that the factors causing delay in disposal of the appeal, which is the main grievance of the Respondent, be taken into consideration while passing order on the present petition.

The learned counsel Sh Sailesh Kapoor added that the appellants are ready to argue the appeals for final disposal and the stay granted was never un conditional. In such a situation any order vacating the stay , when the judgment of Asian Resurfacing is not applicable would be prejudicial to the appellants.

Learned counsel Sh Rajiv Shukla while drawing attention to the opinion expressed by the Ministry of Law and Justice, Dept. of Legal Affairs , on a query made by the Central Board of Indirect Tax& customs , submitted that the said department has issued a clear guideline to the effect that the Asian Resurfacing Judgment is with reference to civil and criminal Trial proceedings. He also submitted that the said judgment can be made applicable to an individual case and it has no general applicability.

Learned counsel Sh Manish Malhotra added that the judgment has been passed by the Hon'ble S C to remedy the position where a trial proceeding is stayed. The interim order passed by this tribunal since does not stay any trial proceeding and specific to the execution of the final order, the petition filed by the Respondent is on a misconception and misinterpretation of the said judgment.

In reply to the submissions made by the counsel for the appellants , the learned counsels Sh Rajesh Kumar and Sh S N Mahanta submitted that different High courts and other courts since interpreted the Judgment of Asian Resurfacing in different manner the Hon'ble SC in another order dt 15th October 2020 (Misc Application No 1577/2020 arising out of Crl Appeal no 1375-1376/2013) have clarified that the judgment of Asian Resurfacing applies to all courts and whatever stay has been granted by any court including the High Court shall automatically expire after six months. Hence the application filed by the respondent be allowed and the order of interim stay be vacated.

Having heard the argument and on a mindful reading of the order passed by the Hon'ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i) A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
- ii) The trial has commenced either by framing of issue in a civil trial and or on framing of charge in a criminal trial
- iii) When the High court or civil or criminal Appellate/Revisional court have granted stay on the said trial proceedings and more than six months have passed since the date of order and no extension of stay has been allowed by a speaking order. The aforesaid directions will not apply to cases where a quasi judicial body or Tribunal grants stay.

Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon'ble SC , by their order dt 15th October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months , unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15th Oct 2020, leads to the only meaning that "A stay granted by any court" means and refers to a stay granted by the civil and criminal Appellate/ Revisional courts mentioned in para36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon'ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that the petitioner is responsible for delay , merely relying on the judgment of the Hon'ble SC the

stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call on 09.08.2022 for arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 1041(4)2015

M/s. Pawan Mehra
Through None for the Appellant

Appellant

Vs.

APFC, Delhi(S)
Through Sh. J.K Sinha, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

Sh. J.K Singha, the learned counsel for the respondent argued on the petition being assisted by Sh Rajesh Kumar, Mr Sidharth, Sh Sivnath Mahanta, Sh Rakesh Singh and others, who are the empaneled counsels of the Respondent department. On the other hand on behalf of the appellant Ms Akanksha Narang advanced her argument opposing the petition being assisted by advocates Sh Rajiv Arora, Sh S K Gupta, Sh Rajiv Shukla, Sh Manish Malhotra Sh Sailesh Kapoor and others who are the counsel in respect of other appeals in which similar petitions have been filed. The counsels, other than the advocate having power in a particular case were allowed to participate and assist since applications of similar nature have been filed in a number of cases involving similar question of fact and law. A common order can not be passed in respect of all the cases as the order to be passed is not likely to finally dispose off the litigation.

It has been stated in the petition that the Tribunal by order dt 04.01.2017 that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order. The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013)have held that

Para 36- " At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay in against the proceedings of a civil or criminal trial is operating, the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the

stay is more important than having the trial finalized. The trial court where order of stay of civil or criminal proceeding is produced ,may fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced.”

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

During course of argument, besides relying on the judgment of Asian Resurfacing referred supra, Sh Rajesh Kumar Advocate for the Respondent drew

the attention to the judgment of the Hon’ble High Court of Madhya Pradesh in the case of Rajmata Vijayraje Sciendia Krishi Vishwavidyalaya VS EPFO, wherein the Hon’ble court, in absence of a specific order extending stay, came to hold that the stay granted by the CGIT Lucknow stands vacated automatically in view of the judgment of Asian Resurfacing. The Respondent thereby insisted for vacation of the interim stay granted. On behalf the respondent the learned counsel also submitted that under Rule 21 of the Appellate Tribunal Rules the Tribunal may make such orders which is expedient to give effects to it’s orders or to prevent abuse of process and secure the ends of justice. Citing several other judgments of the Hon’ble SC , he submitted that EPF & MP Act being a social welfare legislation interpretation of the provision and decided principles of law should be made in a manner to extend the benefits of law to the weaker section of the society.

Argument on the petition was advanced by the counsel for the appellant who challenged the applicability of the order passed in Asian Resurfacing judgment to the appeals pending before the Tribunal. The main objection taken is that the order passed by the Hon’ble Appex Court ,on a plain reading clearly shows that the said order was with reference to the civil and criminal trial proceedings delayed and pending for long time on account of stay orders passed. The same has no applicability to the appeal pending before this Tribunal. Learned counsel Sh Rajib Arora citing the judgment of the Hon’ble High Court of Bombay in the case of Oracle Financial Services Software Ltd vs Dy Commissioner Income Tax, (WPC 542/2019 –order dt 23rd Feb 2019)submitted that the applicability of Asian Resurfacing Judgment passed in the context of civil and criminal proceedings pending before trial courts , can not be imported to the set of quasi judicial proceedings. He also placed reliance in the case of Commissioner of Central Goods & Services Tax vs Anmol Chlorochem (2019 (367) ELT 584 Guj) to submit that the Hon’ble High Court of Gujarat have held that the observation made by the Hon’ble SC can not be made applicable to a Tax Appeal as the said judgment was exclusively with reference to civil or criminal proceedings arising from a trial.

Sh S K Gupta the learned counsel, by referring to the observation made by the Hon’ble Bombay H C in the case of Oracle Financial services argued that when there is no allegation by the Respondent counsel that the delay in disposal of the appeal is attributable to the appellant, the prayer for vacation of stay is not maintainable. He also submitted that the factors causing delay in disposal of the appeal, which is the main grievance of the Respondent, be taken into consideration while passing order on the present petition.

The learned counsel Sh Sailesh Kapoor added that the appellants are ready to argue the appeals for final disposal and the stay granted was never un conditional. In such a situation any order vacating the stay , when the judgment of Asian Resurfacing is not applicable would be prejudicial to the appellants.

Learned counsel Sh Rajiv Shukla while drawing attention to the opinion expressed by the Ministry of Law and Justice, Dept. of Legal Affairs , on a query made by the Central Board of

Indirect Tax& customs , submitted that the said department has issued a clear guideline to the effect that the Asian Resurfacing Judgment is with reference to civil and criminal Trial proceedings. He also submitted that the said judgment can be made applicable to an individual case and it has no general applicability.

Learned counsel Sh Manish Malhotra added that the judgment has been passed by the Hon'ble S C to remedy the position where a trial proceeding is stayed. The interim order passed by this tribunal since does not stay any trial proceeding and specific to the execution of the final order, the petition filed by the Respondent is on a misconception and misinterpretation of the said judgment.

In reply to the submissions made by the counsel for the appellants , the learned counsels Sh Rajesh Kumar and Sh S N Mahanta submitted that different High courts and other courts since interpreted the Judgment of Asian Resurfacing in different manner the Hon'ble SC in another order dt 15th October 2020 (Misc Application No 1577/2020 arising out of Crl Appeal no 1375-1376/2013) have clarified that the judgment of Asian Resurfacing applies to all courts and whatever stay has been granted by any court including the High Court shall automatically expire after six months. Hence the application filed by the respondent be allowed and the order of interim stay be vacated.

Having heard the argument and on a mindful reading of the order passed by the Hon'ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i. A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
- ii. The trial has commenced either by framing of issue in a civil trial and or on framing of charge in a criminal trial
- iii. When the High court or civil or criminal Appellate/Revisional court have granted stay on the said trial proceedings and more than six months have passed since the date of order and no extension of stay has been allowed by a speaking order. The aforesaid directions will not apply to cases where a quasi judicial body or Tribunal grants stay.

Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon'ble SC , by their order dt 15th October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months , unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15th Oct 2020, leads to the only meaning that "A stay granted by any court" means and refers to a stay granted by the civil and criminal Appellate/ Revisional courts mentioned in para36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon'ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that the petitioner is responsible for delay , merely relying on the judgment of the Hon'ble SC the

stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call on 23.05.2022 for arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-1/18/2019

M/s. Unitech Ltd. Appellant
Through Sh. S.P Arora & Sh. Rajiv Arora, Ld. Counsel for the Appellant

Vs.

APFC, Delhi(S) Respondent
Through Sh. Naresh Gupta, Ld. Counsel for the Respondent

ORDER DATED :- 30/03/2022

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

Sh. Naresh Gupta, the learned counsel for the respondent argued on the petition being assisted by Sh Rajesh Kumar, Mr Sidharth, Sh Sivnath Mahanta, Sh Rakesh Singh and others, who are the empaneled counsels of the Respondent department. On the other hand on behalf of the appellant Ms Akanksha Narang advanced her argument opposing the petition being assisted by advocates Sh Rajiv Arora, Sh S K Gupta, Sh Rajiv Shukla, Sh Manish Malhotra Sh Sailesh Kapoor and others who are the counsel in respect of other appeals in which similar petitions have been filed. The counsels, other than the advocate having power in a particular case were allowed to participate and assist since applications of similar nature have been filed in a number of cases involving similar question of fact and law. A common order can not be passed in respect of all the cases as the order to be passed is not likely to finally dispose off the litigation.

It has been stated in the petition that the Tribunal by order dt 26.09.2019 has directed that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order. The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013)have held that

Para 36- " At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay in against the proceedings of a civil or criminal trial is operating, the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the

stay is more important than having the trial finalized. The trial court where order of stay of civil or criminal proceeding is produced ,may fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced.”

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

During course of argument, besides relying on the judgment of Asian Resurfacing referred supra, Sh Rajesh Kumar Advocate for the Respondent drew

the attention to the judgment of the Hon’ble High Court of Madhya Pradesh in the case of Rajmata Vijayraje Sciendia Krishi Vishwavidyalaya VS EPFO, wherein the Hon’ble court, in absence of a specific order extending stay, came to hold that the stay granted by the CGIT Lucknow stands vacated automatically in view of the judgment of Asian Resurfacing. The Respondent thereby insisted for vacation of the interim stay granted. On behalf the respondent the learned counsel also submitted that under Rule 21 of the Appellate Tribunal Rules the Tribunal may make such orders which is expedient to give effects to it’s orders or to prevent abuse of process and secure the ends of justice. Citing several other judgments of the Hon’ble SC , he submitted that EPF & MP Act being a social welfare legislation interpretation of the provision and decided principles of law should be made in a manner to extend the benefits of law to the weaker section of the society.

Argument on the petition was advanced by the counsel for the appellant who challenged the applicability of the order passed in Asian Resurfacing judgment to the appeals pending before the Tribunal. The main objection taken is that the order passed by the Hon’ble Appex Court ,on a plain reading clearly shows that the said order was with reference to the civil and criminal trial proceedings delayed and pending for long time on account of stay orders passed. The same has no applicability to the appeal pending before this Tribunal. Learned counsel Sh Rajib Arora citing the judgment of the Hon’ble High Court of Bombay in the case of Oracle Financial Services Software Ltd vs Dy Commissioner Income Tax, (WPC 542/2019 –order dt 23rd Feb 2019)submitted that the applicability of Asian Resurfacing Judgment passed in the context of civil and criminal proceedings pending before trial courts , can not be imported to the set of quasi judicial proceedings. He also placed reliance in the case of Commissioner of Central Goods & Services Tax vs Anmol Chlorochem (2019 (367) ELT 584 Guj) to submit that the Hon’ble High Court of Gujarat have held that the observation made by the Hon’ble SC can not be made applicable to a Tax Appeal as the said judgment was exclusively with reference to civil or criminal proceedings arising from a trial.

Sh S K Gupta the learned counsel, by referring to the observation made by the Hon’ble Bombay H C in the case of Oracle Financial services argued that when there is no allegation by the Respondent counsel that the delay in disposal of the appeal is attributable to the appellant, the prayer for vacation of stay is not maintainable. He also submitted that the factors causing delay in disposal of the appeal, which is the main grievance of the Respondent, be taken into consideration while passing order on the present petition.

The learned counsel Sh Sailesh Kapoor added that the appellants are ready to argue the appeals for final disposal and the stay granted was never un conditional. In such a situation any order vacating the stay , when the judgment of Asian Resurfacing is not applicable would be prejudicial to the appellants.

Learned counsel Sh Rajiv Shukla while drawing attention to the opinion expressed by the Ministry of Law and Justice, Dept. of Legal Affairs , on a query made by the Central Board of

Indirect Tax& customs , submitted that the said department has issued a clear guideline to the effect that the Asian Resurfacing Judgment is with reference to civil and criminal Trial proceedings. He also submitted that the said judgment can be made applicable to an individual case and it has no general applicability.

Learned counsel Sh Manish Malhotra added that the judgment has been passed by the Hon'ble S C to remedy the position where a trial proceeding is stayed. The interim order passed by this tribunal since does not stay any trial proceeding and specific to the execution of the final order, the petition filed by the Respondent is on a misconception and misinterpretation of the said judgment.

In reply to the submissions made by the counsel for the appellants , the learned counsels Sh Rajesh Kumar and Sh S N Mahanta submitted that different High courts and other courts since interpreted the Judgment of Asian Resurfacing in different manner the Hon'ble SC in another order dt 15th October 2020 (Misc Application No 1577/2020 arising out of Crl Appeal no 1375-1376/2013) have clarified that the judgment of Asian Resurfacing applies to all courts and whatever stay has been granted by any court including the High Court shall automatically expire after six months. Hence the application filed by the respondent be allowed and the order of interim stay be vacated.

Having heard the argument and on a mindful reading of the order passed by the Hon'ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i. A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
- ii. The trial has commenced either by framing of issue in a civil trial and or on framing of charge in a criminal trial
- iii. When the High court or civil or criminal Appellate/Revisional court have granted stay on the said trial proceedings and more than six months have passed since the date of order and no extension of stay has been allowed by a speaking order. The aforesaid directions will not apply to cases where a quasi judicial body or Tribunal grants stay.

Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon'ble SC , by their order dt 15th October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months , unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15th Oct 2020, leads to the only meaning that "A stay granted by any court" means and refers to a stay granted by the civil and criminal Appellate/ Revisional courts mentioned in para36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon'ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that the petitioner is responsible for delay , merely relying on the judgment of the Hon'ble SC the stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call on 05.04.2022 for arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.
Appeal No. D-1/19/2019**

M/s. Unitech Ltd. Appellant
Through Sh. S.P Arora & Sh. Rajiv Arora, Ld. Counsel for the Appellant

Vs.

APFC, Delhi(S) Respondent
Through Sh. Naresh Gupta, Ld. Counsel for the Respondent

ORDER DATED :- 30/03/2022

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

Sh. , the learned counsel for the respondent argued on the petition being assisted by Sh Rajesh Kumar, Mr Sidharth, Sh Sivnath Mahanta, Sh Rakesh Singh and others, who are the empaneled counsels of the Respondent department. On the other hand on behalf of the appellant Ms Akanksha Narang advanced her argument opposing the petition being assisted by advocates Sh Rajiv Arora, Sh S K Gupta, Sh Rajiv Shukla, Sh Manish Malhotra Sh Sailesh Kapoor and others who are the counsel in respect of other appeals in which similar petitions have been filed. The counsels, other than the advocate having power in a particular case were allowed to participate and assist since applications of similar nature have been filed in a number of cases involving similar question of fact and law. A common order can not be passed in respect of all the cases as the order to be passed is not likely to finally dispose off the litigation.

It has been stated in the petition that the Tribunal by order **dt 26.09.2019** has directed that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order. The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013)have held that

Para 36- " At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay in against the proceedings of a civil or criminal trial is operating, the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay is more important than having the trial finalized. The trial court where order of stay of civil

or criminal proceeding is produced ,may fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced.”

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

During course of argument, besides relying on the judgment of Asian Resurfacing referred supra, Sh Rajesh Kumar Advocate for the Respondent drew

the attention to the judgment of the Hon’ble High Court of Madhya Pradesh in the case of Rajmata Vijayaraje Sciendia Krishi Vishwavidyalaya VS EPFO, wherein the Hon’ble court, in absence of a specific order extending stay, came to hold that the stay granted by the CGIT Lucknow stands vacated automatically in view of the judgment of Asian Resurfacing. The Respondent thereby insisted for vacation of the interim stay granted. On behalf the respondent the learned counsel also submitted that under Rule 21 of the Appellate Tribunal Rules the Tribunal may make such orders which is expedient to give effects to it’s orders or to prevent abuse of process and secure the ends of justice. Citing several other judgments of the Hon’ble SC , he submitted that EPF & MP Act being a social welfare legislation interpretation of the provision and decided principles of law should be made in a manner to extend the benefits of law to the weaker section of the society.

Argument on the petition was advanced by the counsel for the appellant who challenged the applicability of the order passed in Asian Resurfacing judgment to the appeals pending before the Tribunal. The main objection taken is that the order passed by the Hon’ble Appex Court ,on a plain reading clearly shows that the said order was with reference to the civil and criminal trial proceedings delayed and pending for long time on account of stay orders passed. The same has no applicability to the appeal pending before this Tribunal. Learned counsel Sh Rajib Arora citing the judgment of the Hon’ble High Court of Bombay in the case of Oracle Financial Services Software Ltd vs Dy Commissioner Income Tax, (WPC 542/2019 –order dt 23rd Feb 2019)submitted that the applicability of Asian Resurfacing Judgment passed in the context of civil and criminal proceedings pending before trial courts , can not be imported to the set of quasi judicial proceedings. He also placed reliance in the case of Commissioner of Central Goods & Services Tax vs Anmol Chlorochem (2019 (367) ELT 584 Guj) to submit that the Hon’ble High Court of Gujarat have held that the observation made by the Hon’ble SC can not be made applicable to a Tax Appeal as the said judgment was exclusively with reference to civil or criminal proceedings arising from a trial.

Sh S K Gupta the learned counsel, by referring to the observation made by the Hon’ble Bombay H C in the case of Oracle Financial services argued that when there is no allegation by the Respondent counsel that the delay in disposal of the appeal is attributable to the appellant, the prayer for vacation of stay is not maintainable. He also submitted that the factors causing delay in disposal of the appeal, which is the main grievance of the Respondent, be taken into consideration while passing order on the present petition.

The learned counsel Sh Sailesh Kapoor added that the appellants are ready to argue the appeals for final disposal and the stay granted was never un conditional. In such a situation any order vacating the stay , when the judgment of Asian Resurfacing is not applicable would be prejudicial to the appellants.

Learned counsel Sh Rajiv Shukla while drawing attention to the opinion expressed by the Ministry of Law and Justice, Dept. of Legal Affairs , on a query made by the Central Board of Indirect Tax& customs , submitted that the said department has issued a clear guideline to the

effect that the Asian Resurfacing Judgment is with reference to civil and criminal Trial proceedings. He also submitted that the said judgment can be made applicable to an individual case and it has no general applicability.

Learned counsel Sh Manish Malhotra added that the judgment has been passed by the Hon'ble S C to remedy the position where a trial proceeding is stayed. The interim order passed by this tribunal since does not stay any trial proceeding and specific to the execution of the final order, the petition filed by the Respondent is on a misconception and misinterpretation of the said judgment.

In reply to the submissions made by the counsel for the appellants, the learned counsels Sh Rajesh Kumar and Sh S N Mahanta submitted that different High courts and other courts since interpreted the Judgment of Asian Resurfacing in different manner the Hon'ble SC in another order dt 15th October 2020 (Misc Application No 1577/2020 arising out of Crl Appeal no 1375-1376/2013) have clarified that the judgment of Asian Resurfacing applies to all courts and whatever stay has been granted by any court including the High Court shall automatically expire after six months. Hence the application filed by the respondent be allowed and the order of interim stay be vacated.

Having heard the argument and on a mindful reading of the order passed by the Hon'ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i. A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
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Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon'ble SC, by their order dt 15th October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months, unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15th Oct 2020, leads to the only meaning that "A stay granted by any court" means and refers to a stay granted by the civil and criminal Appellate/ Revisional courts mentioned in para 36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon'ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that the petitioner is responsible for delay, merely relying on the judgment of the Hon'ble SC the stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call on 05.04.2022for arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.
Appeal No. D-1/20/2019**

M/s. Unitech Ltd. Appellant
Through Sh. S.P Arora & Sh. Rajiv Arora, Ld. Counsel for the Appellant

Vs.

APFC, Delhi(S) Respondent
Through Sh. Naresh Gupta, Ld. Counsel for the Respondent

ORDER DATED :- 30/03/2022

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

Sh. Naresh Gupta, the learned counsel for the respondent argued on the petition being assisted by Sh Rajesh Kumar, Mr Sidharth, Sh Sivnath Mahanta, Sh Rakesh Singh and others, who are the empaneled counsels of the Respondent department. On the other hand on behalf of the appellant Ms Akanksha Narang advanced her argument opposing the petition being assisted by advocates Sh Rajiv Arora, Sh S K Gupta, Sh Rajiv Shukla, Sh Manish Malhotra Sh Sailesh Kapoor and others who are the counsel in respect of other appeals in which similar petitions have been filed. The counsels, other than the advocate having power in a particular case were allowed to participate and assist since applications of similar nature have been filed in a number of cases involving similar question of fact and law. A common order can not be passed in respect of all the cases as the order to be passed is not likely to finally dispose off the litigation.

It has been stated in the petition that the Tribunal by order dt 26.09.2019 has directed that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order. The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013)have held that

Para 36- " At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay in against the proceedings of a civil or criminal trial is operating, the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the

stay is more important than having the trial finalized. The trial court where order of stay of civil or criminal proceeding is produced ,may fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced.”

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

During course of argument, besides relying on the judgment of Asian Resurfacing referred supra, Sh Rajesh Kumar Advocate for the Respondent drew

the attention to the judgment of the Hon’ble High Court of Madhya Pradesh in the case of Rajmata Vijayraje Sciendia Krishi Vishwavidyalaya VS EPFO, wherein the Hon’ble court, in absence of a specific order extending stay, came to hold that the stay granted by the CGIT Lucknow stands vacated automatically in view of the judgment of Asian Resurfacing. The Respondent thereby insisted for vacation of the interim stay granted. On behalf the respondent the learned counsel also submitted that under Rule 21 of the Appellate Tribunal Rules the Tribunal may make such orders which is expedient to give effects to it’s orders or to prevent abuse of process and secure the ends of justice. Citing several other judgments of the Hon’ble SC , he submitted that EPF & MP Act being a social welfare legislation interpretation of the provision and decided principles of law should be made in a manner to extend the benefits of law to the weaker section of the society.

Argument on the petition was advanced by the counsel for the appellant who challenged the applicability of the order passed in Asian Resurfacing judgment to the appeals pending before the Tribunal. The main objection taken is that the order passed by the Hon’ble Appex Court ,on a plain reading clearly shows that the said order was with reference to the civil and criminal trial proceedings delayed and pending for long time on account of stay orders passed. The same has no applicability to the appeal pending before this Tribunal. Learned counsel Sh Rajib Arora citing the judgment of the Hon’ble High Court of Bombay in the case of Oracle Financial Services Software Ltd vs Dy Commissioner Income Tax, (WPC 542/2019 –order dt 23rd Feb 2019)submitted that the applicability of Asian Resurfacing Judgment passed in the context of civil and criminal proceedings pending before trial courts , can not be imported to the set of quasi judicial proceedings. He also placed reliance in the case of Commissioner of Central Goods & Services Tax vs Anmol Chlorochem (2019 (367) ELT 584 Guj) to submit that the Hon’ble High Court of Gujarat have held that the observation made by the Hon’ble SC can not be made applicable to a Tax Appeal as the said judgment was exclusively with reference to civil or criminal proceedings arising from a trial.

Sh S K Gupta the learned counsel, by referring to the observation made by the Hon’ble Bombay H C in the case of Oracle Financial services argued that when there is no allegation by the Respondent counsel that the delay in disposal of the appeal is attributable to the appellant, the prayer for vacation of stay is not maintainable. He also submitted that the factors causing delay in disposal of the appeal, which is the main grievance of the Respondent, be taken into consideration while passing order on the present petition.

The learned counsel Sh Sailesh Kapoor added that the appellants are ready to argue the appeals for final disposal and the stay granted was never un conditional. In such a situation any order vacating the stay , when the judgment of Asian Resurfacing is not applicable would be prejudicial to the appellants.

Learned counsel Sh Rajiv Shukla while drawing attention to the opinion expressed by the Ministry of Law and Justice, Dept. of Legal Affairs , on a query made by the Central Board of

Indirect Tax& customs , submitted that the said department has issued a clear guideline to the effect that the Asian Resurfacing Judgment is with reference to civil and criminal Trial proceedings. He also submitted that the said judgment can be made applicable to an individual case and it has no general applicability.

Learned counsel Sh Manish Malhotra added that the judgment has been passed by the Hon'ble S C to remedy the position where a trial proceeding is stayed. The interim order passed by this tribunal since does not stay any trial proceeding and specific to the execution of the final order, the petition filed by the Respondent is on a misconception and misinterpretation of the said judgment.

In reply to the submissions made by the counsel for the appellants , the learned counsels Sh Rajesh Kumar and Sh S N Mahanta submitted that different High courts and other courts since interpreted the Judgment of Asian Resurfacing in different manner the Hon'ble SC in another order dt 15th October 2020 (Misc Application No 1577/2020 arising out of Crl Appeal no 1375-1376/2013) have clarified that the judgment of Asian Resurfacing applies to all courts and whatever stay has been granted by any court including the High Court shall automatically expire after six months. Hence the application filed by the respondent be allowed and the order of interim stay be vacated.

Having heard the argument and on a mindful reading of the order passed by the Hon'ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i. A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
- ii. The trial has commenced either by framing of issue in a civil trial and or on framing of charge in a criminal trial
- iii. When the High court or civil or criminal Appellate/Revisional court have granted stay on the said trial proceedings and more than six months have passed since the date of order and no extension of stay has been allowed by a speaking order. The aforesaid directions will not apply to cases where a quasi judicial body or Tribunal grants stay.

Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon'ble SC , by their order dt 15th October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months , unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15th Oct 2020, leads to the only meaning that "A stay granted by any court" means and refers to a stay granted by the civil and criminal Appellate/ Revisional courts mentioned in para36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon'ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that the petitioner is responsible for delay , merely relying on the judgment of the Hon'ble SC the stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call on 05.04.2022 for arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 967(4)2016

M/s. Indra Sistemas India Pvt. Ltd.
Through Sh. S.K Gupta, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Delhi(S)
Through Sh. Naresh Gupta, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

Sh. Naresh Gupta, the learned counsel for the respondent argued on the petition being assisted by Sh Rajesh Kumar, Mr Sidharth, Sh Sivnath Mahanta, Sh Rakesh Singh and others, who are the empaneled counsels of the Respondent department. On the other hand on behalf of the appellant Ms Akanksha Narang advanced her argument opposing the petition being assisted by advocates Sh Rajiv Arora, Sh S K Gupta, Sh Rajiv Shukla, Sh Manish Malhotra Sh Sailesh Kapoor and others who are the counsel in respect of other appeals in which similar petitions have been filed. The counsels, other than the advocate having power in a particular case were allowed to participate and assist since applications of similar nature have been filed in a number of cases involving similar question of fact and law. A common order can not be passed in respect of all the cases as the order to be passed is not likely to finally dispose off the litigation.

It has been stated in the petition that the Tribunal by order **dt 11.11.2016** has directed that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order. The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013)have held that

Para 36- " At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay in against the proceedings of a civil or criminal trial is operating, the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The

speaking order must show that the case was of such exceptional nature that continuing the stay is more important than having the trial finalized. The trial court where order of stay of civil or criminal proceeding is produced, may fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced.”

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

During course of argument, besides relying on the judgment of Asian Resurfacing referred supra, Sh Rajesh Kumar Advocate for the Respondent drew

the attention to the judgment of the Hon’ble High Court of Madhya Pradesh in the case of Rajmata Vijayraje Sciendia Krishi Vishwavidyalaya VS EPFO, wherein the Hon’ble court, in absence of a specific order extending stay, came to hold that the stay granted by the CGIT Lucknow stands vacated automatically in view of the judgment of Asian Resurfacing. The Respondent thereby insisted for vacation of the interim stay granted. On behalf the respondent the learned counsel also submitted that under Rule 21 of the Appellate Tribunal Rules the Tribunal may make such orders which is expedient to give effects to it’s orders or to prevent abuse of process and secure the ends of justice. Citing several other judgments of the Hon’ble SC , he submitted that EPF & MP Act being a social welfare legislation interpretation of the provision and decided principles of law should be made in a manner to extend the benefits of law to the weaker section of the society.

Argument on the petition was advanced by the counsel for the appellant who challenged the applicability of the order passed in Asian Resurfacing judgment to the appeals pending before the Tribunal. The main objection taken is that the order passed by the Hon’ble Appex Court ,on a plain reading clearly shows that the said order was with reference to the civil and criminal trial proceedings delayed and pending for long time on account of stay orders passed. The same has no applicability to the appeal pending before this Tribunal. Learned counsel Sh Rajib Arora citing the judgment of the Hon’ble High Court of Bombay in the case of Oracle Financial Services Software Ltd vs Dy Commissioner Income Tax, (WPC 542/2019 –order dt 23rd Feb 2019)submitted that the applicability of Asian Resurfacing Judgment passed in the context of civil and criminal proceedings pending before trial courts , can not be imported to the set of quasi judicial proceedings. He also placed reliance in the case of Commissioner of Central Goods & Services Tax vs Anmol Chlorochem (2019 (367) ELT 584 Guj) to submit that the Hon’ble High Court of Gujarat have held that the observation made by the Hon’ble SC can not be made applicable to a Tax Appeal as the said judgment was exclusively with reference to civil or criminal proceedings arising from a trial.

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The learned counsel Sh Sailesh Kapoor added that the appellants are ready to argue the appeals for final disposal and the stay granted was never un conditional. In such a situation any order vacating the stay , when the judgment of Asian Resurfacing is not applicable would be prejudicial to the appellants.

Learned counsel Sh Rajiv Shukla while drawing attention to the opinion expressed by the Ministry of Law and Justice, Dept. of Legal Affairs , on a query made by the Central Board of Indirect Tax& customs , submitted that the said department has issued a clear guideline to the effect that the Asian Resurfacing Judgment is with reference to civil and criminal Trial proceedings. He also submitted that the said judgment can be made applicable to an individual case and it has no general applicability.

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In reply to the submissions made by the counsel for the appellants , the learned counsels Sh Rajesh Kumar and Sh S N Mahanta submitted that different High courts and other courts since interpreted the Judgment of Asian Resurfacing in different manner the Hon'ble SC in another order dt 15th October 2020 (Misc Application No 1577/2020 arising out of Crl Appeal no 1375-1376/2013) have clarified that the judgment of Asian Resurfacing applies to all courts and whatever stay has been granted by any court including the High Court shall automatically expire after six months. Hence the application filed by the respondent be allowed and the order of interim stay be vacated.

Having heard the argument and on a mindful reading of the order passed by the Hon'ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i. A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
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- iii. When the High court or civil or criminal Appellate/Revisional court have granted stay on the said trial proceedings and more than six months have passed since the date of order and no extension of stay has been allowed by a speaking order. The aforesaid directions will not apply to cases where a quasi judicial body or Tribunal grants stay.

Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon'ble SC , by their order dt 15th October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months , unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15th Oct 2020, leads to the only meaning that "A stay granted by any court" means and refers to a stay granted by the civil and criminal Appellate/ Revisional courts mentioned in para36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon'ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that the petitioner is responsible for delay , merely relying on the judgment of the Hon'ble SC the

stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call on 13.05.2022 for arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-1/43/2019

M/s. Kochhar Impex Pvt. Ltd.
Through Ms. Nitu Mishra, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Delhi(N)
Through Sh. Naresh Gutpa, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

Sh. Naresh Gupta, the learned counsel for the respondent argued on the petition being assisted by Sh Rajesh Kumar, Mr Sidharth, Sh Sivnath Mahanta, Sh Rakesh Singh and others, who are the empaneled counsels of the Respondent department. On the other hand on behalf of the appellant Ms Akanksha Narang advanced her argument opposing the petition being assisted by advocates Sh Rajiv Arora, Sh S K Gupta, Sh Rajiv Shukla, Sh Manish Malhotra Sh Sailesh Kapoor and others who are the counsel in respect of other appeals in which similar petitions have been filed. The counsels, other than the advocate having power in a particular case were allowed to participate and assist since applications of similar nature have been filed in a number of cases involving similar question of fact and law. A common order can not be passed in respect of all the cases as the order to be passed is not likely to finally dispose off the litigation.

It has been stated in the petition that the Tribunal by order **dt 18.12.2019** has directed that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order. The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013)have held that

Para 36- " At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay in against the proceedings of a civil or criminal trial is operating, the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six

months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay is more important than having the trial finalized. The trial court where order of stay of civil or criminal proceeding is produced, may fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced.”

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

During course of argument, besides relying on the judgment of Asian Resurfacing referred supra, Sh Rajesh Kumar Advocate for the Respondent drew

the attention to the judgment of the Hon’ble High Court of Madhya Pradesh in the case of Rajmata Vijayraje Sciendia Krishi Vishwavidyalaya VS EPFO, wherein the Hon’ble court, in absence of a specific order extending stay, came to hold that the stay granted by the CGIT Lucknow stands vacated automatically in view of the judgment of Asian Resurfacing. The Respondent thereby insisted for vacation of the interim stay granted. On behalf the respondent the learned counsel also submitted that under Rule 21 of the Appellate Tribunal Rules the Tribunal may make such orders which is expedient to give effects to it’s orders or to prevent abuse of process and secure the ends of justice. Citing several other judgments of the Hon’ble SC , he submitted that EPF & MP Act being a social welfare legislation interpretation of the provision and decided principles of law should be made in a manner to extend the benefits of law to the weaker section of the society.

Argument on the petition was advanced by the counsel for the appellant who challenged the applicability of the order passed in Asian Resurfacing judgment to the appeals pending before the Tribunal. The main objection taken is that the order passed by the Hon’ble Appex Court ,on a plain reading clearly shows that the said order was with reference to the civil and criminal trial proceedings delayed and pending for long time on account of stay orders passed. The same has no applicability to the appeal pending before this Tribunal. Learned counsel Sh Rajib Arora citing the judgment of the Hon’ble High Court of Bombay in the case of Oracle Financial Services Software Ltd vs Dy Commissioner Income Tax, (WPC 542/2019 –order dt 23rd Feb 2019)submitted that the applicability of Asian Resurfacing Judgment passed in the context of civil and criminal proceedings pending before trial courts , can not be imported to the set of quasi judicial proceedings. He also placed reliance in the case of Commissioner of Central Goods & Services Tax vs Anmol Chlorochem (2019 (367) ELT 584 Guj) to submit that the Hon’ble High Court of Gujarat have held that the observation made by the Hon’ble SC can not be made applicable to a Tax Appeal as the said judgment was exclusively with reference to civil or criminal proceedings arising from a trial.

Sh S K Gupta the learned counsel, by referring to the observation made by the Hon’ble Bombay H C in the case of Oracle Financial services argued that when there is no allegation by the Respondent counsel that the delay in disposal of the appeal is attributable to the appellant, the prayer for vacation of stay is not maintainable. He also submitted that the factors causing delay in disposal of the appeal, which is the main grievance of the Respondent, be taken into consideration while passing order on the present petition.

The learned counsel Sh Sailesh Kapoor added that the appellants are ready to argue the appeals for final disposal and the stay granted was never un conditional. In such a situation any order vacating the stay , when the judgment of Asian Resurfacing is not applicable would be prejudicial to the appellants.

Learned counsel Sh Rajiv Shukla while drawing attention to the opinion expressed by the Ministry of Law and Justice, Dept. of Legal Affairs , on a query made by the Central Board of Indirect Tax& customs , submitted that the said department has issued a clear guideline to the effect that the Asian Resurfacing Judgment is with reference to civil and criminal Trial proceedings. He also submitted that the said judgment can be made applicable to an individual case and it has no general applicability.

Learned counsel Sh Manish Malhotra added that the judgment has been passed by the Hon'ble S C to remedy the position where a trial proceeding is stayed. The interim order passed by this tribunal since does not stay any trial proceeding and specific to the execution of the final order, the petition filed by the Respondent is on a misconception and misinterpretation of the said judgment.

In reply to the submissions made by the counsel for the appellants , the learned counsels Sh Rajesh Kumar and Sh S N Mahanta submitted that different High courts and other courts since interpreted the Judgment of Asian Resurfacing in different manner the Hon'ble SC in another order dt 15th October 2020 (Misc Application No 1577/2020 arising out of Crl Appeal no 1375-1376/2013) have clarified that the judgment of Asian Resurfacing applies to all courts and whatever stay has been granted by any court including the High Court shall automatically expire after six months. Hence the application filed by the respondent be allowed and the order of interim stay be vacated.

Having heard the argument and on a mindful reading of the order passed by the Hon'ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i. A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
- ii. The trial has commenced either by framing of issue in a civil trial and or on framing of charge in a criminal trial
- iii. When the High court or civil or criminal Appellate/Revisional court have granted stay on the said trial proceedings and more than six months have passed since the date of order and no extension of stay has been allowed by a speaking order. The aforesaid directions will not apply to cases where a quasi judicial body or Tribunal grants stay.

Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon'ble SC , by their order dt 15th October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months , unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15th Oct 2020, leads to the only meaning that "A stay granted by any court" means and refers to a stay granted by the civil and criminal Appellate/ Revisional courts mentioned in para36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon'ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that

the petitioner is responsible for delay , merely relying on the judgment of the Hon'ble SC the stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call on 28.04.2022 for arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-1/27/2020

M/s. Ashiana Housing Ltd.
Through Sh. Rajiv Shukla, Ld. Counsel for the Appellant

Appellant

Vs.

CBT, RPFC, Delhi (S) & APFC, Delhi (S)
Through Sh. Naresh Gupta, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

Sh.Naresh Gupta, the learned counsel for the respondent argued on the petition being assisted by Sh Rajesh Kumar, Mr Sidharth, Sh Sivnath Mahanta, Sh Rakesh Singh and others, who are the empaneled counsels of the Respondent department. On the other hand on behalf of the appellant Ms Akanksha Narang advanced her argument opposing the petition being assisted by advocates Sh Rajiv Arora, Sh S K Gupta, Sh Rajiv Shukla, Sh Manish Malhotra Sh Sailesh Kapoor and others who are the counsel in respect of other appeals in which similar petitions have been filed. The counsels, other than the advocate having power in a particular case were allowed to participate and assist since applications of similar nature have been filed in a number of cases involving similar question of fact and law. A common order can not be passed in respect of all the cases as the order to be passed is not likely to finally dispose off the litigation.

It has been stated in the petition that the Tribunal by order **dt 23.09.2020** has directed that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order. The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013)have held that

Para 36- “ At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay in against the proceedings of a civil or criminal trial is operating , the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay is more important than having the trial finalized. The trial court where order of stay of civil or criminal proceeding is produced ,may fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced.”

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

During course of argument, besides relying on the judgment of Asian Resurfacing referred supra, Sh Rajesh Kumar Advocate for the Respondent drew

the attention to the judgment of the Hon’ble High Court of Madhya Pradesh in the case of Rajmata Vijayraje Sciendia Krishi Vishwavidyalaya VS EPFO, wherein the Hon’ble court, in absence of a specific order extending stay, came to hold that the stay granted by the CGIT Lucknow stands vacated automatically in view of the judgment of Asian Resurfacing. The Respondent thereby insisted for vacation of the interim stay granted. On behalf the respondent the learned counsel also submitted that under Rule 21 of the Appellate Tribunal Rules the Tribunal may make such orders which is expedient to give effects to it’s orders or to prevent abuse of process and secure the ends of justice. Citing several other judgments of the Hon’ble SC , he submitted that EPF & MP Act being a social welfare legislation interpretation of the provision and decided principles of law should be made in a manner to extend the benefits of law to the weaker section of the society.

Argument on the petition was advanced by the counsel for the appellant who challenged the applicability of the order passed in Asian Resurfacing judgment to the appeals pending before the Tribunal. The main objection taken is that the order passed by the Hon’ble Appex Court ,on a plain reading clearly shows that the said order was with reference to the civil and criminal trial proceedings delayed and pending for long time on account of stay orders passed. The same has no applicability to the appeal pending before this Tribunal. Learned counsel Sh Rajib Arora citing the judgment of the Hon’ble High Court of Bombay in the case of Oracle Financial Services Software Ltd vs Dy Commissioner Income Tax, (WPC 542/2019 –order dt 23rd Feb 2019)submitted that the applicability of Asian Resurfacing Judgment passed in the context of civil and criminal proceedings pending before trial courts , can not be imported to the set of quasi judicial proceedings. He also placed reliance in the case of Commissioner of Central Goods &Services Tax vs Anmol Chlorochem (2019 (367) ELT 584 Guj) to submit that the Hon’ble High Court of Gujurat have held that the observation made by the Hon’ble SC can not be made applicable to a Tax Appeal as the said judgment was exclusively with reference to civil or criminal proceedings arising from a trial.

Sh S K Gupta the learned counsel, by referring to the observation made by the Hon'ble Bombay H C in the case of Oracle Financial services argued that when there is no allegation by the Respondent counsel that the delay in disposal of the appeal is attributable to the appellant, the prayer for vacation of stay is not maintainable. He also submitted that the factors causing delay in disposal of the appeal, which is the main grievance of the Respondent, be taken into consideration while passing order on the present petition.

The learned counsel Sh Sailesh Kapoor added that the appellants are ready to argue the appeals for final disposal and the stay granted was never un conditional. In such a situation any order vacating the stay , when the judgment of Asian Resurfacing is not applicable would be prejudicial to the appellants.

Learned counsel Sh Rajiv Shukla while drawing attention to the opinion expressed by the Ministry of Law and Justice, Dept. of Legal Affairs , on a query made by the Central Board of Indirect Tax& customs , submitted that the said department has issued a clear guideline to the effect that the Asian Resurfacing Judgment is with reference to civil and criminal Trial proceedings. He also submitted that the said judgment can be made applicable to an individual case and it has no general applicability.

Learned counsel Sh Manish Malhotra added that the judgment has been passed by the Hon'ble S C to remedy the position where a trial proceeding is stayed. The interim order passed y this tribunal since does not stay any trial proceeding and specific to the execution of the final order, the petition filed by the Respondent is on a misconception and mis interpretation of the said judgment.

In reply to the submissions made by the counsel for the appellants , the learned counsels Sh Rajesh Kumar and Sh S N Mahanta submitted that different High courts and other courts since interpreted the Judgment of Asian Resurfacing in different manner the Hon'ble SC in another order dt 15th October 2020 (Misc Application No 1577/2020 arising out of Crl Appeal no 1375-1376/2013)have clarified that the judgment of Asian Resurfacing applies to all courts and whatever stay has been granted by any court including the High Court shall automatically expire after six months. Hence the application filed by the respondent be allowed and the order of interim stay be vacated.

Having heard the argument and on a mindful reading of the order passed by the Hon'ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i. A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
- ii. The trial has commenced either by framing of issue in a civil trial and or on framing of charge in a criminal trial
- iii. When the High court or civil or criminal Appellate/Revisional court have granted stay on the said trial proceedings and more than six months have passed since the date of order and no extension of stay

has been allowed by a speaking order. The aforesaid directions will not apply to cases where a quasi judicial body or Tribunal grants stay.

Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon'ble SC , by their order dt 15th October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months , unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15th Oct 2020, leads to the only meaning that "A stay granted by any court" means and refers to a stay granted by the civil and criminal Appellate/ Revisional courts mentioned in para36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon'ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that the petitioner is responsible for delay , merely relying on the judgment of the Hon'ble SC the stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call on 02.06.2022 for filing rejoinder.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 681(4)2016

M/s. Veolia Water (India)
Through Sh. Krishan Kartik, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Delhi(N)
Through Sh. Naresh Gupta, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

Sh. Naresh Gupta, the learned counsel for the respondent argued on the petition being assisted by Sh Rajesh Kumar, Mr Sidharth, Sh Sivnath Mahanta, Sh Rakesh Singh and others, who are the empaneled counsels of the Respondent department. On the other hand on behalf of the appellant Ms Akanksha Narang advanced her argument opposing the petition being assisted by advocates Sh Rajiv Arora, Sh S K Gupta, Sh Rajiv Shukla, Sh Manish Malhotra Sh Sailesh Kapoor and others who are the counsel in respect of other appeals in which similar petitions have been filed. The counsels, other than the advocate having power in a particular case were allowed to participate and assist since applications of similar nature have been filed in a number of cases involving similar question of fact and law. A common order can not be passed in respect of all the cases as the order to be passed is not likely to finally dispose off the litigation.

It has been stated in the petition that the Tribunal by order **dt 15.06.2016** has directed that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order. The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013)have held that

Para 36- " At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay in against the proceedings of a civil or criminal trial is operating, the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the

stay is more important than having the trial finalized. The trial court where order of stay of civil or criminal proceeding is produced ,may fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced.”

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

During course of argument, besides relying on the judgment of Asian Resurfacing referred supra, Sh Rajesh Kumar Advocate for the Respondent drew

the attention to the judgment of the Hon’ble High Court of Madhya Pradesh in the case of Rajmata Vijayraje Sciendia Krishi Vishwavidyalaya VS EPFO, wherein the Hon’ble court, in absence of a specific order extending stay, came to hold that the stay granted by the CGIT Lucknow stands vacated automatically in view of the judgment of Asian Resurfacing. The Respondent thereby insisted for vacation of the interim stay granted. On behalf the respondent the learned counsel also submitted that under Rule 21 of the Appellate Tribunal Rules the Tribunal may make such orders which is expedient to give effects to it’s orders or to prevent abuse of process and secure the ends of justice. Citing several other judgments of the Hon’ble SC , he submitted that EPF & MP Act being a social welfare legislation interpretation of the provision and decided principles of law should be made in a manner to extend the benefits of law to the weaker section of the society.

Argument on the petition was advanced by the counsel for the appellant who challenged the applicability of the order passed in Asian Resurfacing judgment to the appeals pending before the Tribunal. The main objection taken is that the order passed by the Hon’ble Appex Court ,on a plain reading clearly shows that the said order was with reference to the civil and criminal trial proceedings delayed and pending for long time on account of stay orders passed. The same has no applicability to the appeal pending before this Tribunal. Learned counsel Sh Rajib Arora citing the judgment of the Hon’ble High Court of Bombay in the case of Oracle Financial Services Software Ltd vs Dy Commissioner Income Tax, (WPC 542/2019 –order dt 23rd Feb 2019)submitted that the applicability of Asian Resurfacing Judgment passed in the context of civil and criminal proceedings pending before trial courts , can not be imported to the set of quasi judicial proceedings. He also placed reliance in the case of Commissioner of Central Goods & Services Tax vs Anmol Chlorochem (2019 (367) ELT 584 Guj) to submit that the Hon’ble High Court of Gujarat have held that the observation made by the Hon’ble SC can not be made applicable to a Tax Appeal as the said judgment was exclusively with reference to civil or criminal proceedings arising from a trial.

Sh S K Gupta the learned counsel, by referring to the observation made by the Hon’ble Bombay H C in the case of Oracle Financial services argued that when there is no allegation by the Respondent counsel that the delay in disposal of the appeal is attributable to the appellant, the prayer for vacation of stay is not maintainable. He also submitted that the factors causing delay in disposal of the appeal, which is the main grievance of the Respondent, be taken into consideration while passing order on the present petition.

The learned counsel Sh Sailesh Kapoor added that the appellants are ready to argue the appeals for final disposal and the stay granted was never un conditional. In such a situation any order vacating the stay , when the judgment of Asian Resurfacing is not applicable would be prejudicial to the appellants.

Learned counsel Sh Rajiv Shukla while drawing attention to the opinion expressed by the Ministry of Law and Justice, Dept. of Legal Affairs , on a query made by the Central Board of

Indirect Tax& customs , submitted that the said department has issued a clear guideline to the effect that the Asian Resurfacing Judgment is with reference to civil and criminal Trial proceedings. He also submitted that the said judgment can be made applicable to an individual case and it has no general applicability.

Learned counsel Sh Manish Malhotra added that the judgment has been passed by the Hon'ble S C to remedy the position where a trial proceeding is stayed. The interim order passed by this tribunal since does not stay any trial proceeding and specific to the execution of the final order, the petition filed by the Respondent is on a misconception and misinterpretation of the said judgment.

In reply to the submissions made by the counsel for the appellants , the learned counsels Sh Rajesh Kumar and Sh S N Mahanta submitted that different High courts and other courts since interpreted the Judgment of Asian Resurfacing in different manner the Hon'ble SC in another order dt 15th October 2020 (Misc Application No 1577/2020 arising out of Crl Appeal no 1375-1376/2013) have clarified that the judgment of Asian Resurfacing applies to all courts and whatever stay has been granted by any court including the High Court shall automatically expire after six months. Hence the application filed by the respondent be allowed and the order of interim stay be vacated.

Having heard the argument and on a mindful reading of the order passed by the Hon'ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i. A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
- ii. The trial has commenced either by framing of issue in a civil trial and or on framing of charge in a criminal trial
- iii. When the High court or civil or criminal Appellate/Revisional court have granted stay on the said trial proceedings and more than six months have passed since the date of order and no extension of stay has been allowed by a speaking order. The aforesaid directions will not apply to cases where a quasi judicial body or Tribunal grants stay.

Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon'ble SC , by their order dt 15th October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months , unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15th Oct 2020, leads to the only meaning that "A stay granted by any court" means and refers to a stay granted by the civil and criminal Appellate/ Revisional courts mentioned in para36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon'ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that the petitioner is responsible for delay , merely relying on the judgment of the Hon'ble SC the stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call on 09.08.2022 for arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 331(4)2016

M/s. Delhi Sikh Management Committee
Through None for the Appellant

Appellant

Vs.

APFC, Delhi
Through Sh. Naresh Gupta, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

Sh. Naresh Gupta, the learned counsel for the respondent argued on the petition being assisted by Sh Rajesh Kumar, Mr Sidharth, Sh Sivnath Mahanta, Sh Rakesh Singh and others, who are the empaneled counsels of the Respondent department. On the other hand on behalf of the appellant Ms Akanksha Narang advanced her argument opposing the petition being assisted by advocates Sh Rajiv Arora, Sh S K Gupta, Sh Rajiv Shukla, Sh Manish Malhotra Sh Sailesh Kapoor and others who are the counsel in respect of other appeals in which similar petitions have been filed. The counsels, other than the advocate having power in a particular case were allowed to participate and assist since applications of similar nature have been filed in a number of cases involving similar question of fact and law. A common order can not be passed in respect of all the cases as the order to be passed is not likely to finally dispose off the litigation.

It has been stated in the petition that the Tribunal by order **dt 21.03.2016** has directed that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order. The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013)have held that

Para 36- " At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay in against the proceedings of a civil or criminal trial is operating, the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six

months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay is more important than having the trial finalized. The trial court where order of stay of civil or criminal proceeding is produced, may fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced.”

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

During course of argument, besides relying on the judgment of Asian Resurfacing referred supra, Sh Rajesh Kumar Advocate for the Respondent drew

the attention to the judgment of the Hon’ble High Court of Madhya Pradesh in the case of Rajmata Vijayraje Sciendia Krishi Vishwavidyalaya VS EPFO, wherein the Hon’ble court, in absence of a specific order extending stay, came to hold that the stay granted by the CGIT Lucknow stands vacated automatically in view of the judgment of Asian Resurfacing. The Respondent thereby insisted for vacation of the interim stay granted. On behalf the respondent the learned counsel also submitted that under Rule 21 of the Appellate Tribunal Rules the Tribunal may make such orders which is expedient to give effects to it’s orders or to prevent abuse of process and secure the ends of justice. Citing several other judgments of the Hon’ble SC , he submitted that EPF & MP Act being a social welfare legislation interpretation of the provision and decided principles of law should be made in a manner to extend the benefits of law to the weaker section of the society.

Argument on the petition was advanced by the counsel for the appellant who challenged the applicability of the order passed in Asian Resurfacing judgment to the appeals pending before the Tribunal. The main objection taken is that the order passed by the Hon’ble Appex Court ,on a plain reading clearly shows that the said order was with reference to the civil and criminal trial proceedings delayed and pending for long time on account of stay orders passed. The same has no applicability to the appeal pending before this Tribunal. Learned counsel Sh Rajib Arora citing the judgment of the Hon’ble High Court of Bombay in the case of Oracle Financial Services Software Ltd vs Dy Commissioner Income Tax, (WPC 542/2019 –order dt 23rd Feb 2019)submitted that the applicability of Asian Resurfacing Judgment passed in the context of civil and criminal proceedings pending before trial courts , can not be imported to the set of quasi judicial proceedings. He also placed reliance in the case of Commissioner of Central Goods & Services Tax vs Anmol Chlorochem (2019 (367) ELT 584 Guj) to submit that the Hon’ble High Court of Gujarat have held that the observation made by the Hon’ble SC can not be made applicable to a Tax Appeal as the said judgment was exclusively with reference to civil or criminal proceedings arising from a trial.

Sh S K Gupta the learned counsel, by referring to the observation made by the Hon’ble Bombay H C in the case of Oracle Financial services argued that when there is no allegation by the Respondent counsel that the delay in disposal of the appeal is attributable to the appellant, the prayer for vacation of stay is not maintainable. He also submitted that the factors causing delay in disposal of the appeal, which is the main grievance of the Respondent, be taken into consideration while passing order on the present petition.

The learned counsel Sh Sailesh Kapoor added that the appellants are ready to argue the appeals for final disposal and the stay granted was never un conditional. In such a situation any order vacating the stay , when the judgment of Asian Resurfacing is not applicable would be prejudicial to the appellants.

Learned counsel Sh Rajiv Shukla while drawing attention to the opinion expressed by the Ministry of Law and Justice, Dept. of Legal Affairs , on a query made by the Central Board of Indirect Tax& customs , submitted that the said department has issued a clear guideline to the effect that the Asian Resurfacing Judgment is with reference to civil and criminal Trial proceedings. He also submitted that the said judgment can be made applicable to an individual case and it has no general applicability.

Learned counsel Sh Manish Malhotra added that the judgment has been passed by the Hon'ble S C to remedy the position where a trial proceeding is stayed. The interim order passed by this tribunal since does not stay any trial proceeding and specific to the execution of the final order, the petition filed by the Respondent is on a misconception and misinterpretation of the said judgment.

In reply to the submissions made by the counsel for the appellants , the learned counsels Sh Rajesh Kumar and Sh S N Mahanta submitted that different High courts and other courts since interpreted the Judgment of Asian Resurfacing in different manner the Hon'ble SC in another order dt 15th October 2020 (Misc Application No 1577/2020 arising out of Crl Appeal no 1375-1376/2013) have clarified that the judgment of Asian Resurfacing applies to all courts and whatever stay has been granted by any court including the High Court shall automatically expire after six months. Hence the application filed by the respondent be allowed and the order of interim stay be vacated.

Having heard the argument and on a mindful reading of the order passed by the Hon'ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i. A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
- ii. The trial has commenced either by framing of issue in a civil trial and or on framing of charge in a criminal trial
- iii. When the High court or civil or criminal Appellate/Revisional court have granted stay on the said trial proceedings and more than six months have passed since the date of order and no extension of stay has been allowed by a speaking order. The aforesaid directions will not apply to cases where a quasi judicial body or Tribunal grants stay.

Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon'ble SC , by their order dt 15th October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months , unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15th Oct 2020, leads to the only meaning that "A stay granted by any court" means and refers to a stay granted by the civil and criminal Appellate/ Revisional courts mentioned in para36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal

pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon'ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that the petitioner is responsible for delay , merely relying on the judgment of the Hon'ble SC the stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call on 25.05.2022 for arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-1/18/2018

M/s. Mynah Designs
Through None for the Appellant

Appellant

Vs.

APFC, Delhi(S)
Through Sh. Naresh Gupta, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

Sh. Naresh Gupta, the learned counsel for the respondent argued on the petition being assisted by Sh Rajesh Kumar, Mr Sidharth, Sh Sivnath Mahanta, Sh Rakesh Singh and others, who are the empaneled counsels of the Respondent department. On the other hand on behalf of the appellant Ms Akanksha Narang advanced her argument opposing the petition being assisted by advocates Sh Rajiv Arora, Sh S K Gupta, Sh Rajiv Shukla, Sh Manish Malhotra Sh Sailesh Kapoor and others who are the counsel in respect of other appeals in which similar petitions have been filed. The counsels, other than the advocate having power in a particular case were allowed to participate and assist since applications of similar nature have been filed in a number of cases involving similar question of fact and law. A common order can not be passed in respect of all the cases as the order to be passed is not likely to finally dispose off the litigation.

It has been stated in the petition that the Tribunal by order **dt 05.10.2018** has directed that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order. The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013)have held that

Para 36- " At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay

in against the proceedings of a civil or criminal trial is operating , the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay is more important than having the trial finalized. The trial court where order of stay of civil or criminal proceeding is produced ,may fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced.”

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

During course of argument, besides relying on the judgment of Asian Resurfacing referred supra, Sh Rajesh Kumar Advocate for the Respondent drew

the attention to the judgment of the Hon’ble High Court of Madhya Pradesh in the case of Rajmata Vijayraje Sciendia Krishi Vishwavidyalaya VS EPFO, wherein the Hon’ble court, in absence of a specific order extending stay, came to hold that the stay granted by the CGIT Lucknow stands vacated automatically in view of the judgment of Asian Resurfacing. The Respondent thereby insisted for vacation of the interim stay granted. On behalf the respondent the learned counsel also submitted that under Rule 21 of the Appellate Tribunal Rules the Tribunal may make such orders which is expedient to give effects to it’s orders or to prevent abuse of process and secure the ends of justice. Citing several other judgments of the Hon’ble SC , he submitted that EPF & MP Act being a social welfare legislation interpretation of the provision and decided principles of law should be made in a manner to extend the benefits of law to the weaker section of the society.

Argument on the petition was advanced by the counsel for the appellant who challenged the applicability of the order passed in Asian Resurfacing judgment to the appeals pending before the Tribunal. The main objection taken is that the order passed by the Hon’ble Appex Court ,on a plain reading clearly shows that the said order was with reference to the civil and criminal trial proceedings delayed and pending for long time on account of stay orders passed. The same has no applicability to the appeal pending before this Tribunal. Learned counsel Sh Rajib Arora citing the judgment of the Hon’ble High Court of Bombay in the case of Oracle Financial Services Software Ltd vs Dy Commissioner Income Tax, (WPC 542/2019 –order dt 23rd Feb 2019)submitted that the applicability of Asian Resurfacing Judgment passed in the context of civil and criminal proceedings pending before trial courts , can not be imported to the set of quasi judicial proceedings. He also placed reliance in the case of Commissioner of Central Goods & Services Tax vs Anmol Chlorochem (2019 (367) ELT 584 Guj) to submit that the Hon’ble High Court of Gujarat have held that the observation made by the Hon’ble SC can not be made applicable to a Tax Appeal as the said judgment was exclusively with reference to civil or criminal proceedings arising from a trial.

Sh S K Gupta the learned counsel, by referring to the observation made by the Hon’ble Bombay H C in the case of Oracle Financial services argued that when there is no allegation by the Respondent counsel that the delay in disposal of the appeal is attributable to the appellant, the prayer for vacation of stay is not maintainable. He also submitted that the factors causing delay in disposal of the appeal, which is the main grievance of the Respondent, be taken into consideration while passing order on the present petition.

The learned counsel Sh Sailesh Kapoor added that the appellants are ready to argue the appeals for final disposal and the stay granted was never un conditional. In such a situation any order vacating the stay , when the judgment of Asian Resurfacing is not applicable would be prejudicial to the appellants.

Learned counsel Sh Rajiv Shukla while drawing attention to the opinion expressed by the Ministry of Law and Justice, Dept. of Legal Affairs , on a query made by the Central Board of Indirect Tax& customs , submitted that the said department has issued a clear guideline to the effect that the Asian Resurfacing Judgment is with reference to civil and criminal Trial proceedings. He also submitted that the said judgment can be made applicable to an individual case and it has no general applicability.

Learned counsel Sh Manish Malhotra added that the judgment has been passed by the Hon'ble S C to remedy the position where a trial proceeding is stayed. The interim order passed y this tribunal since does not stay any trial proceeding and specific to the execution of the final order, the petition filed by the Respondent is on a misconception and mis interpretation of the said judgment.

In reply to the submissions made by the counsel for the appellants , the learned counsels Sh Rajesh Kumar and Sh S N Mahanta submitted that different High courts and other courts since interpreted the Judgment of Asian Resurfacing in different manner the Hon'ble SC in another order dt 15th October 2020 (Misc Application No 1577/2020 arising out of Crl Appeal no 1375-1376/2013)have clarified that the judgment of Asian Resurfacing applies to all courts and whatever stay has been granted by any court including the High Court shall automatically expire after six months. Hence the application filed by the respondent be allowed and the order of interim stay be vacated.

Having heard the argument and on a mindful reading of the order passed by the Hon'ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i. A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
- ii. The trial has commenced either by framing of issue in a civil trial and or on framing of charge in a criminal trial
- iii. When the High court or civil or criminal Appellate/Revisional court have granted stay on the said trial proceedings and more than six months have passed since the date of order and no extension of stay has been allowed by a speaking order. The aforesaid directions will not apply to cases where a quasi judicial body or Tribunal grants stay.

Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon'ble SC , by their order dt 15th October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months , unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15th Oct 2020, leads to the only meaning that "A stay granted by any court" means and refers to a stay granted by the civil and criminal Appellate/ Revisional courts mentioned in para36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon'ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that the petitioner is responsible for delay , merely relying on the judgment of the Hon'ble SC the stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call on 27.04.2022 for arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 405(4)2016

M/s. Mynah Design
Through Sh. S.P Arora & Sh. Rajiv Arora Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Delhi
Through Sh. Naresh Gupta, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

Sh. Naresh Gupta, the learned counsel for the respondent argued on the petition being assisted by Sh Rajesh Kumar, Mr Sidharth, Sh Sivnath Mahanta, Sh Rakesh Singh and others, who are the empaneled counsels of the Respondent department. On the other hand on behalf of the appellant Ms Akanksha Narang advanced her argument opposing the petition being assisted by advocates Sh Rajiv Arora, Sh S K Gupta, Sh Rajiv Shukla, Sh Manish Malhotra Sh Sailesh Kapoor and others who are the counsel in respect of other appeals in which similar petitions have been filed. The counsels, other than the advocate having power in a particular case were allowed to participate and assist since applications of similar nature have been filed in a number of cases involving similar question of fact and law. A common order can not be passed in respect of all the cases as the order to be passed is not likely to finally dispose off the litigation.

It has been stated in the petition that the Tribunal by order **dt 06.04.2016** has directed that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order. The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013)have held that

Para 36- " At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay in against the proceedings of a civil or criminal trial is operating, the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six

months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay is more important than having the trial finalized. The trial court where order of stay of civil or criminal proceeding is produced, may fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced.”

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

During course of argument, besides relying on the judgment of Asian Resurfacing referred supra, Sh Rajesh Kumar Advocate for the Respondent drew

the attention to the judgment of the Hon’ble High Court of Madhya Pradesh in the case of Rajmata Vijayraje Sciendia Krishi Vishwavidyalaya VS EPFO, wherein the Hon’ble court, in absence of a specific order extending stay, came to hold that the stay granted by the CGIT Lucknow stands vacated automatically in view of the judgment of Asian Resurfacing. The Respondent thereby insisted for vacation of the interim stay granted. On behalf the respondent the learned counsel also submitted that under Rule 21 of the Appellate Tribunal Rules the Tribunal may make such orders which is expedient to give effects to it’s orders or to prevent abuse of process and secure the ends of justice. Citing several other judgments of the Hon’ble SC , he submitted that EPF & MP Act being a social welfare legislation interpretation of the provision and decided principles of law should be made in a manner to extend the benefits of law to the weaker section of the society.

Argument on the petition was advanced by the counsel for the appellant who challenged the applicability of the order passed in Asian Resurfacing judgment to the appeals pending before the Tribunal. The main objection taken is that the order passed by the Hon’ble Appex Court ,on a plain reading clearly shows that the said order was with reference to the civil and criminal trial proceedings delayed and pending for long time on account of stay orders passed. The same has no applicability to the appeal pending before this Tribunal. Learned counsel Sh Rajib Arora citing the judgment of the Hon’ble High Court of Bombay in the case of Oracle Financial Services Software Ltd vs Dy Commissioner Income Tax, (WPC 542/2019 –order dt 23rd Feb 2019)submitted that the applicability of Asian Resurfacing Judgment passed in the context of civil and criminal proceedings pending before trial courts , can not be imported to the set of quasi judicial proceedings. He also placed reliance in the case of Commissioner of Central Goods & Services Tax vs Anmol Chlorochem (2019 (367) ELT 584 Guj) to submit that the Hon’ble High Court of Gujarat have held that the observation made by the Hon’ble SC can not be made applicable to a Tax Appeal as the said judgment was exclusively with reference to civil or criminal proceedings arising from a trial.

Sh S K Gupta the learned counsel, by referring to the observation made by the Hon’ble Bombay H C in the case of Oracle Financial services argued that when there is no allegation by the Respondent counsel that the delay in disposal of the appeal is attributable to the appellant, the prayer for vacation of stay is not maintainable. He also submitted that the factors causing delay in disposal of the appeal, which is the main grievance of the Respondent, be taken into consideration while passing order on the present petition.

The learned counsel Sh Sailesh Kapoor added that the appellants are ready to argue the appeals for final disposal and the stay granted was never un conditional. In such a situation any order vacating the stay , when the judgment of Asian Resurfacing is not applicable would be prejudicial to the appellants.

Learned counsel Sh Rajiv Shukla while drawing attention to the opinion expressed by the Ministry of Law and Justice, Dept. of Legal Affairs , on a query made by the Central Board of Indirect Tax& customs , submitted that the said department has issued a clear guideline to the effect that the Asian Resurfacing Judgment is with reference to civil and criminal Trial proceedings. He also submitted that the said judgment can be made applicable to an individual case and it has no general applicability.

Learned counsel Sh Manish Malhotra added that the judgment has been passed by the Hon'ble S C to remedy the position where a trial proceeding is stayed. The interim order passed by this tribunal since does not stay any trial proceeding and specific to the execution of the final order, the petition filed by the Respondent is on a misconception and misinterpretation of the said judgment.

In reply to the submissions made by the counsel for the appellants , the learned counsels Sh Rajesh Kumar and Sh S N Mahanta submitted that different High courts and other courts since interpreted the Judgment of Asian Resurfacing in different manner the Hon'ble SC in another order dt 15th October 2020 (Misc Application No 1577/2020 arising out of Crl Appeal no 1375-1376/2013) have clarified that the judgment of Asian Resurfacing applies to all courts and whatever stay has been granted by any court including the High Court shall automatically expire after six months. Hence the application filed by the respondent be allowed and the order of interim stay be vacated.

Having heard the argument and on a mindful reading of the order passed by the Hon'ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i. A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
- ii. The trial has commenced either by framing of issue in a civil trial and or on framing of charge in a criminal trial
- iii. When the High court or civil or criminal Appellate/Revisional court have granted stay on the said trial proceedings and more than six months have passed since the date of order and no extension of stay has been allowed by a speaking order. The aforesaid directions will not apply to cases where a quasi judicial body or Tribunal grants stay.

Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon'ble SC , by their order dt 15th October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months , unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15th Oct 2020, leads to the only meaning that "A stay granted by any court" means and refers to a stay granted by the civil and criminal Appellate/ Revisional courts mentioned in para36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon'ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that

the petitioner is responsible for delay , merely relying on the judgment of the Hon'ble SC the stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call on 13.04.2022 for arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 551(4)2015

M/s. Eagle Hunters Solutions Ltd.
Through Ms. Nitu Mishra, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Delhi
Through Sh. Naresh Gupta, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

Sh. Naresh Gupta, the learned counsel for the respondent argued on the petition being assisted by Sh Rajesh Kumar, Mr Sidharth, Sh Sivnath Mahanta, Sh Rakesh Singh and others, who are the empaneled counsels of the Respondent department. On the other hand on behalf of the appellant Ms Akanksha Narang advanced her argument opposing the petition being assisted by advocates Sh Rajiv Arora, Sh S K Gupta, Sh Rajiv Shukla, Sh Manish Malhotra Sh Sailesh Kapoor and others who are the counsel in respect of other appeals in which similar petitions have been filed. The counsels, other than the advocate having power in a particular case were allowed to participate and assist since applications of similar nature have been filed in a number of cases involving similar question of fact and law. A common order can not be passed in respect of all the cases as the order to be passed is not likely to finally dispose off the litigation.

It has been stated in the petition that the Tribunal by order **dt 20.07.2015** has directed that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order. The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013)have held that

Para 36- " At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay in against the proceedings of a civil or criminal trial is operating, the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six

months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay is more important than having the trial finalized. The trial court where order of stay of civil or criminal proceeding is produced, may fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced.”

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

During course of argument, besides relying on the judgment of Asian Resurfacing referred supra, Sh Rajesh Kumar Advocate for the Respondent drew

the attention to the judgment of the Hon’ble High Court of Madhya Pradesh in the case of Rajmata Vijayraje Sciendia Krishi Vishwavidyalaya VS EPFO, wherein the Hon’ble court, in absence of a specific order extending stay, came to hold that the stay granted by the CGIT Lucknow stands vacated automatically in view of the judgment of Asian Resurfacing. The Respondent thereby insisted for vacation of the interim stay granted. On behalf the respondent the learned counsel also submitted that under Rule 21 of the Appellate Tribunal Rules the Tribunal may make such orders which is expedient to give effects to it’s orders or to prevent abuse of process and secure the ends of justice. Citing several other judgments of the Hon’ble SC , he submitted that EPF & MP Act being a social welfare legislation interpretation of the provision and decided principles of law should be made in a manner to extend the benefits of law to the weaker section of the society.

Argument on the petition was advanced by the counsel for the appellant who challenged the applicability of the order passed in Asian Resurfacing judgment to the appeals pending before the Tribunal. The main objection taken is that the order passed by the Hon’ble Appex Court ,on a plain reading clearly shows that the said order was with reference to the civil and criminal trial proceedings delayed and pending for long time on account of stay orders passed. The same has no applicability to the appeal pending before this Tribunal. Learned counsel Sh Rajib Arora citing the judgment of the Hon’ble High Court of Bombay in the case of Oracle Financial Services Software Ltd vs Dy Commissioner Income Tax, (WPC 542/2019 –order dt 23rd Feb 2019)submitted that the applicability of Asian Resurfacing Judgment passed in the context of civil and criminal proceedings pending before trial courts , can not be imported to the set of quasi judicial proceedings. He also placed reliance in the case of Commissioner of Central Goods & Services Tax vs Anmol Chlorochem (2019 (367) ELT 584 Guj) to submit that the Hon’ble High Court of Gujarat have held that the observation made by the Hon’ble SC can not be made applicable to a Tax Appeal as the said judgment was exclusively with reference to civil or criminal proceedings arising from a trial.

Sh S K Gupta the learned counsel, by referring to the observation made by the Hon’ble Bombay H C in the case of Oracle Financial services argued that when there is no allegation by the Respondent counsel that the delay in disposal of the appeal is attributable to the appellant, the prayer for vacation of stay is not maintainable. He also submitted that the factors causing delay in disposal of the appeal, which is the main grievance of the Respondent, be taken into consideration while passing order on the present petition.

The learned counsel Sh Sailesh Kapoor added that the appellants are ready to argue the appeals for final disposal and the stay granted was never un conditional. In such a situation any order vacating the stay , when the judgment of Asian Resurfacing is not applicable would be prejudicial to the appellants.

Learned counsel Sh Rajiv Shukla while drawing attention to the opinion expressed by the Ministry of Law and Justice, Dept. of Legal Affairs , on a query made by the Central Board of Indirect Tax& customs , submitted that the said department has issued a clear guideline to the effect that the Asian Resurfacing Judgment is with reference to civil and criminal Trial proceedings. He also submitted that the said judgment can be made applicable to an individual case and it has no general applicability.

Learned counsel Sh Manish Malhotra added that the judgment has been passed by the Hon'ble S C to remedy the position where a trial proceeding is stayed. The interim order passed by this tribunal since does not stay any trial proceeding and specific to the execution of the final order, the petition filed by the Respondent is on a misconception and misinterpretation of the said judgment.

In reply to the submissions made by the counsel for the appellants , the learned counsels Sh Rajesh Kumar and Sh S N Mahanta submitted that different High courts and other courts since interpreted the Judgment of Asian Resurfacing in different manner the Hon'ble SC in another order dt 15th October 2020 (Misc Application No 1577/2020 arising out of Crl Appeal no 1375-1376/2013) have clarified that the judgment of Asian Resurfacing applies to all courts and whatever stay has been granted by any court including the High Court shall automatically expire after six months. Hence the application filed by the respondent be allowed and the order of interim stay be vacated.

Having heard the argument and on a mindful reading of the order passed by the Hon'ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i. A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
- ii. The trial has commenced either by framing of issue in a civil trial and or on framing of charge in a criminal trial
- iii. When the High court or civil or criminal Appellate/Revisional court have granted stay on the said trial proceedings and more than six months have passed since the date of order and no extension of stay has been allowed by a speaking order. The aforesaid directions will not apply to cases where a quasi judicial body or Tribunal grants stay.

Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon'ble SC , by their order dt 15th October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months , unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15th Oct 2020, leads to the only meaning that "A stay granted by any court" means and refers to a stay granted by the civil and criminal Appellate/ Revisional courts mentioned in para36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon'ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that the petitioner is responsible for delay , merely relying on the judgment of the Hon'ble SC the

stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call on 12.05.2022 for arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-1/12/2019

M/s. Netree E-Services Pvt. Ltd.
Through None for the Appellant

Appellant

Vs.

APFC, Delhi(S)
Through Sh. Naresh Gupta, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

This order deals with the application filed by the Respondent of the appeal, praying vacation of the interim stay granted by this Tribunal on the execution of the order impugned in the appeal, the objection raised by the appellant to the said application, and the specific argument advanced by the learned counsel for the respective parties.

Perusal of the record shows that the Tribunal, at the time of admission of the appeal had passed a conditional order of interim stay on the execution of the order challenged pending disposal of the appeal. Since, the appeal is pending for a long period and more than six months have passed since the date of the above said interim stay order, the Respondent, by filing the present petition has prayed for vacation of the stay in view of the order passed by the Hon'ble Supreme Court in the case of Asian Resurfacing of Road Agency Pvt Ltd & Another vs C B I.

Sh. Naresh Gupta, the learned counsel for the respondent argued on the petition being assisted by Sh Rajesh Kumar, Mr Sidharth, Sh Sivnath Mahanta, Sh Rakesh Singh and others, who are the empaneled counsels of the Respondent department. On the other hand on behalf of the appellant Ms Akanksha Narang advanced her argument opposing the petition being assisted by advocates Sh Rajiv Arora, Sh S K Gupta, Sh Rajiv Shukla, Sh Manish Malhotra Sh Sailesh Kapoor and others who are the counsel in respect of other appeals in which similar petitions have been filed. The counsels, other than the advocate having power in a particular case were allowed to participate and assist since applications of similar nature have been filed in a number of cases involving similar question of fact and law. A common order can not be passed in respect of all the cases as the order to be passed is not likely to finally dispose off the litigation.

It has been stated in the petition that the Tribunal by order **dt 10.05.2019** has directed that there would be an interim stay on execution of the impugned order on compliance of the condition set out in the order. More than six months have passed since the date of that order and the stay granted has not been extended for a further period by a specific speaking order. The Hon'ble SC in the case of Asian Resurfacing of Road Agency & Anr vs Central Bureau of Investigation(Crl Appeal No1375-1376/2013)have held that

Para 36- " At times proceedings are adjourned sine die on account of stay. Even after stay is vacated intimations are not received and proceedings are not taken up. In an attempt to remedy the situation we consider it appropriate to direct that in all pending cases where stay in against the proceedings of a civil or criminal trial is operating, the same shall come to an end on expiry of six months from today unless in an exceptional case by a speaking order the stay is not extended. In cases where stay is granted in future, the same will end on expiry of six

months from the date of such order unless similar extension is granted by a speaking order. The speaking order must show that the case was of such exceptional nature that continuing the stay is more important than having the trial finalized. The trial court where order of stay of civil or criminal proceeding is produced, may fix a date not beyond six months of the order of stay so that non expiry of the period of stay, proceeding can commence unless order of extension of stay is produced.”

In view of the said order and since no extension of stay has been granted by the Tribunal by a speaking order, the stay stands vacated on expiry of six month. Hence an order to that effect need to be passed for clarity .

During course of argument, besides relying on the judgment of Asian Resurfacing referred supra, Sh Rajesh Kumar Advocate for the Respondent drew

the attention to the judgment of the Hon’ble High Court of Madhya Pradesh in the case of Rajmata Vijayraje Sciendia Krishi Vishwavidyalaya VS EPFO, wherein the Hon’ble court, in absence of a specific order extending stay, came to hold that the stay granted by the CGIT Lucknow stands vacated automatically in view of the judgment of Asian Resurfacing. The Respondent thereby insisted for vacation of the interim stay granted. On behalf the respondent the learned counsel also submitted that under Rule 21 of the Appellate Tribunal Rules the Tribunal may make such orders which is expedient to give effects to it’s orders or to prevent abuse of process and secure the ends of justice. Citing several other judgments of the Hon’ble SC , he submitted that EPF & MP Act being a social welfare legislation interpretation of the provision and decided principles of law should be made in a manner to extend the benefits of law to the weaker section of the society.

Argument on the petition was advanced by the counsel for the appellant who challenged the applicability of the order passed in Asian Resurfacing judgment to the appeals pending before the Tribunal. The main objection taken is that the order passed by the Hon’ble Appex Court ,on a plain reading clearly shows that the said order was with reference to the civil and criminal trial proceedings delayed and pending for long time on account of stay orders passed. The same has no applicability to the appeal pending before this Tribunal. Learned counsel Sh Rajib Arora citing the judgment of the Hon’ble High Court of Bombay in the case of Oracle Financial Services Software Ltd vs Dy Commissioner Income Tax, (WPC 542/2019 –order dt 23rd Feb 2019)submitted that the applicability of Asian Resurfacing Judgment passed in the context of civil and criminal proceedings pending before trial courts , can not be imported to the set of quasi judicial proceedings. He also placed reliance in the case of Commissioner of Central Goods & Services Tax vs Anmol Chlorochem (2019 (367) ELT 584 Guj) to submit that the Hon’ble High Court of Gujarat have held that the observation made by the Hon’ble SC can not be made applicable to a Tax Appeal as the said judgment was exclusively with reference to civil or criminal proceedings arising from a trial.

Sh S K Gupta the learned counsel, by referring to the observation made by the Hon’ble Bombay H C in the case of Oracle Financial services argued that when there is no allegation by the Respondent counsel that the delay in disposal of the appeal is attributable to the appellant, the prayer for vacation of stay is not maintainable. He also submitted that the factors causing delay in disposal of the appeal, which is the main grievance of the Respondent, be taken into consideration while passing order on the present petition.

The learned counsel Sh Sailesh Kapoor added that the appellants are ready to argue the appeals for final disposal and the stay granted was never un conditional. In such a situation any order vacating the stay , when the judgment of Asian Resurfacing is not applicable would be prejudicial to the appellants.

Learned counsel Sh Rajiv Shukla while drawing attention to the opinion expressed by the Ministry of Law and Justice, Dept. of Legal Affairs , on a query made by the Central Board of Indirect Tax& customs , submitted that the said department has issued a clear guideline to the effect that the Asian Resurfacing Judgment is with reference to civil and criminal Trial proceedings. He also submitted that the said judgment can be made applicable to an individual case and it has no general applicability.

Learned counsel Sh Manish Malhotra added that the judgment has been passed by the Hon'ble S C to remedy the position where a trial proceeding is stayed. The interim order passed y this tribunal since does not stay any trial proceeding and specific to the execution of the final order, the petition filed by the Respondent is on a misconception and mis interpretation of the said judgment.

In reply to the submissions made by the counsel for the appellants , the learned counsels Sh Rajesh Kumar and Sh S N Mahanta submitted that different High courts and other courts since interpreted the Judgment of Asian Resurfacing in different manner the Hon'ble SC in another order dt 15th October 2020 (Misc Application No 1577/2020 arising out of Crl Appeal no 1375-1376/2013)have clarified that the judgment of Asian Resurfacing applies to all courts and whatever stay has been granted by any court including the High Court shall automatically expire after six months. Hence the application filed by the respondent be allowed and the order of interim stay be vacated.

Having heard the argument and on a mindful reading of the order passed by the Hon'ble SC in March 2018 in the case of Asian Resurfacing it appears that the directions given in para 35 and 36 will apply when

- i. A civil or criminal case is pending in a court, meaning thereby a trial court or the High Court exercising original civil jurisdiction
- ii. The trial has commenced either by framing of issue in a civil trial and or on framing of charge in a criminal trial
- iii. When the High court or civil or criminal Appellate/Revisional court have granted stay on the said trial proceedings and more than six months have passed since the date of order and no extension of stay has been allowed by a speaking order. The aforesaid directions will not apply to cases where a quasi judicial body or Tribunal grants stay.

Here is a situation, where the stay granted has not stayed the trial of any civil or criminal proceeding and the stay is specifically with regard to the recovery proceeding pursuant to a concluded inquiry and decision rendered by a quasi judicial authority, which is under challenge in the appeal.

It is true that the The Hon'ble SC , by their order dt 15th October 2020 passed in Asian Resurfacing case have reiterated that whatever stay granted by any court, including High Court, the same automatically expires after a period of six months , unless extension is granted for good reasons as per the judgment of March 2018. But this order can not be read in isolation. A conjunctive reading of para 35 and 36 the judgment of March 2018 and order dt 15th Oct 2020, leads to the only meaning that "A stay granted by any court" means and refers to a stay granted

by the civil and criminal Appellate/ Revisional courts mentioned in para36 of the judgment and specifically with reference to a pending civil or criminal trial. It is not applicable to an appeal pending challenging the order passed in an already disposed of proceeding by a quasi judicial authority.

It will not be out of place to mention that the Hon'ble High Court of Bombay in the case of Oracle Financial referred supra have held in clear terms that there being no allegation that the petitioner is responsible for delay , merely relying on the judgment of the Hon'ble SC the stay can not be vacated in an appeal where the stay is in respect of the implementation of an already decided order by a quasi judicial Authority and challenged in the appeal.

In view of the aforesaid discussion, it is held that the petition filed by the Respondent for vacation of stay is without merit and rejected. Call on 25.04.2022 for arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 751(4)2009

M/s. V2 Retail
Through None for the Respondent

Appellant

Vs.

RPFC, Delhi (N)
Through Sh. Pram Prakash, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

As none has pressed the miscellaneous application, application filed on behalf of the applicant seeking a direction to the Provident Fund Commissioner to pay an interest on the amount to the Appellant in light of the directions passed by the Hon'ble High Court of Delhi in W.P (C) 1338 of 2015; the same is rejected for non-prosecution. Consign the record as per rule.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-1/06/2017

M/s. Profacilities Services Pvt. Ltd.
Through Sh. Ravi Ranjan, Ld. Counsel for the Appellant

Appellant

Vs.

APFC, Delhi (E)
Sh. Rajesh Kumar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

Heard in part. List the matter again on 20.04.2022 for consideration of the miscellaneous application filed by the Ld. Counsel for the Appellant. Interim orders granted on 16.03.2022 to continue till next date of hearing.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 258(4)2014

M/s. Bamra Engineering Works
Through Sh. Raj Kumar Proxy Counsel for the Appellant
Vs.

Appellant

APFC, Delhi
Through Sh. Narender Kumar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

The Proxy Counsel on behalf of the Appellant sought an adjournment. Granted as a last chance. List the matter on 20.04.2022 for arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 259(4)2014

M/s. Bamra Machine & Tools Pvt. Ltd.
Through Sh. Raj Kumar, Proxy Counsel for the Appellant
Vs.

Appellant

APFC, Delhi
Through Sh. Narender Kumar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

The Proxy Counsel on behalf of the Appellant sought an adjournment. Granted as a last chance. List the matter on 20.04.2022 for arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 1051(4)2014

M/s. Santa Events & Exhibition Pvt. Ltd.
None for the Respondent

Appellant

Vs.

APFC, Delhi
Through Sh. Rajesh Kumar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

As none is present for the Appellant, the appeal is dismissed for default. Consign the record as per rules after sending the copy of this order to both the parties.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. D-1/19/2018

M/s. IIMS Detective Pvt. Ltd.
Through None for the Appellant

Appellant

Vs.

RPFC, Delhi
Thorough Sh. Manish Dhir, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

The Ld. Counsel for the Respondent moved an application on behalf of the Respondent under order XXXIX rule 4 read with section 151 of the code of civil procedure for vacation of stay granted to the appellant. Arguments heard in part. List the matter on 19.04.2022 for consideration of the said application.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.
Appeal No. 787(4)2014**

M/s. Era Infra Engineering Pvt. Ltd.
Through Sh. Sumeet Anand, Ld. Counsel for the Appellant
Vs.

Appellant

APFC, Delhi (N)
Through Sh. Rajesh Kumar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

Arguments made by the Ld. Counsel for the Respondent heard in
part. List the matter on 11.04.2022 for continuation of the arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 62(4)2015

M/s. Sunil Health Care Ltd.
Through Sh. Raj Kumar Proxy Counsel for the Appellant
Vs.

Appellant

APFC, Delhi
Through Sh. Rajesh Kumar, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

Arguments made by the Ld. Counsel for the Respondent heard in part. List the matter on 09/05/2022 for continuation of the arguments.

Presiding Officer

**BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT-II, ROUSE AVENUE,
DISTRICT COURT COMPLEX, DELHI.**

Present:

Smt. Pranita Mohanty,
Presiding Officer, C.G.I.T.-Cum-Labour
Court-II, New Delhi.

ATA No. D-2/07/2022

M/s. Delhi Public School Ghaziabad Society

Appellant

VS.

APFC-II, Gurgaon west

Respondent

ORDER DATED:- 30.03.2022

Present:- Sh. S.K Khanna, Ld. Counsel for the Appellant.

Shri B.B Pradhan, Ld. Counsel for the Respondent.

This order deals with two separate petitions filed by the appellant praying condonation of delay for admission of the appeal and waiver of the condition prescribed u/s 7 O of the Act directing deposit of 75% of the assessed amount as a pre condition for filing the appeal, for the reasons stated in the petitions.

Copy of both the petitions being served on the respondent, learned counsel for the respondent appeared and participated in the hearing. The record reveals that the impugned order u/s 7A was passed by the commissioner on 30.03.2020 and the appeal has been filed on 21.02.2022. Thus the office has pointed out about the delay in filing of the appeal. The learned counsel for the appellant submitted that the appeal, though has been filed after the prescribed period of 60 days, it is well within the period of limitation if the period of limitation in view of the order passed by the Hon'ble SC in suo motto WPC No 3/2020 extending the period of limitation till 28.02.2022. Citing the shut down of all activities on account of the outbreak of COVID- 19, submitted that the delay was for the shut down for

COVID 19, which is a reason beyond the control of the appellant and the same be condoned for admission of the appeal.

The learned counsel for the respondent fairly conceded that in the prevailing situation of COVID 19, it was not possible to file the appeal within the period of limitation. He also conceded to the direction of the Hon'ble SC for condonation of delay. Hence taking the circumstances into consideration it is held that the delay is not intentional but for a reason beyond the control of the appellant and it is a fit case where the period of limitation need to be condoned as has been directed by the Hon'ble SC. The petition for condonation of delay is accordingly allowed.

The other petition filed by the appellant is for waiver/reduction of the pre deposit amount contemplated u/s 7 –O of the Act. The learned counsel for the appellant submitted that the impugned order has been passed in respect of a period spreading over two years and four months. Being called by the commissioner all the documents were made available and the establishment had extended all necessary co-operation. The basis for initiation of the inquiry was the complaint made by an employee. The complaint not supported by any document was entertained and the summons was issued. Not only that the EO was asked to conduct an inquiry. The EO reported that the establishment is depositing the PF contribution of its regular employees on bifurcating the gross pay in to components like basic pay, DA and HRA. But in respect of the contractual employees the gross pay has been shown as the basic pay in order to show them as excluded employees and keep them away from the benefits under the Act. Though the establishment had filed all relevant documents including the salary/wage register etc, the commissioner in stead of considering the same accepted the Report of the EO and on the same day closed the inquiry which was followed by the impugned order. The commissioner without any basis took 15000/- from the salary of the excluded employees as their basic pay and on that imaginary amount calculated the EPF dues payable by the establishment. The commissioner without going through the details of the documents filed and ignoring the submission and the details of the EPF contribution made for the period under inquiry passed the order, which is based upon the report of the E O only. Citing various judgments of the Hon'ble S C he submitted that the impugned order suffers from patent illegality and the appellant has a fair chance of success. On behalf of the appellant it has also been submitted that before filing of the appeal the establishment made deposit of the entire assessed amount being put under threat of arrest by the Respondent.

There by the appellant has prayed for waiver of the condition of pre deposit and submitted that the Tribunal has the discretion to do so in the facts and circumstances of this case.

In reply the learned counsel for the respondent, while supporting the impugned order as a reasoned order pointed out the very purpose of the Beneficial legislation and submitted that the amount was recovered in due process as the appellant had not filed the appeal till the end of January 2022.

Considering the submission advanced by the counsel for both the parties an order need to be passed on the compliance/waiver of the conditions laid under the provisions of sec 7-O of the Act. Admitted position being the recovery of the entire assessed amount, without going to the other detail pointed out by the appellant challenging the order as arbitrary and at this stage of admission without making a roving inquiry on the merits of the appeal, it is felt proper to admit the appeal taking the recovered amount for considering compliance of the provisions of sec 7O of the Act.

The appeal is admitted. Call on 05.05.2022 for filing of reply by the Respondent.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 1105(4)2015

M/s. Systra Consulting India Pvt. Ltd.
Through Sh. Raj Kumar, Proxy Counsel for the Appellant
Vs.

Appellant

APFC, Delhi (S)
Through Sh. Sanjay Aggarwal, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

Arguments made by the Ld. Counsel for the Respondent heard in
part. List the matter on 09/05/2022 for continuation of the arguments.

Presiding Officer

**BEFORE THE HON'BLE PRESIDING OFFICER, CENTRAL GOVERNMENT
INDUSTRIAL TRIBUNAL CUM LABOUR COURT, DELHI; ROOM No.208
ROUSE AVENUE, DISTRICT COURT COMPLEX, NEW DELHI-110002.**

Appeal No. 1312(16)2014

M/s. Instyle Exports Pvt. Ltd.
Through None for the Appellant

Appellant

Vs.

APFC, Gurgaon
Through Sh. S.C Gupta, Ld. Counsel for the Respondent

Respondent

ORDER DATED :- 30/03/2022

Although the matter was listed for 29.03.2022 , however, the same could not be taken on that date and the same was posted for today. Today Ms. Akanksha Narang, moved one application for withdrawal of the Vakalatnama filed on behalf of the Ld. Counsel for the Appellant. The Application is allowed. Issue notice to the Appellant establishment for 19.04.2022.

Presiding Officer