

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD**MISC. CIVIL APPLICATION (FOR EXTENSION OF TIME) NO. 1 of 2019****In****R/SPECIAL CIVIL APPLICATION NO. 1321 of 2019**

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PERFECT BORING PRIVATE LIMITED

Versus

UNION OF INDIA

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Appearance:

MR ZUBIN F BHARDA for the PETITIONER(s) No.

for the RESPONDENT(s) No.

MR ANKIT SHAH for the RESPONDENT(s) No.

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CORAM: **HONOURABLE MS.JUSTICE HARSHA DEVANI**

and

HONOURABLE DR.JUSTICE A. P. THAKER**Date : 28/06/2019****IA ORDER****(PER : HONOURABLE MS.JUSTICE HARSHA DEVANI)**

1. Leave to amend the relief clause.

2. Rule. Mr. Ankit Shah, learned Senior Standing Counsel, waives service of notice of rule on behalf of the respondents.

3. By this application, the applicant seeks extension of the time period for furnishing bank guarantee as directed vide order dated 08.02.2019 for a further period of four months from today for the reasons set out in the memorandum of application.

4. Heard Mr. Zubin Bharda, learned advocate for the applicant and Mr. Ankit Shah, learned Senior Standing Counsel for the respondent.

5. Vide order dated 08.02.2019, this Court had directed the applicant to furnish a bank guarantee for a sum of Rs.55,00,000/- (rupees fifty five lakhs) to the respondent No.2 within a period of one month from the date of the order and to also file an undertaking to the effect that he shall pay the balance amount of Rs.55,00,000/- in equal monthly installments within a period of eight months.

6. Mr. Bharda, learned advocate for the applicant, submitted that the first three installments have already been paid and that the fourth installment could not be paid because the bank account of the applicant has been attached by the respondent authorities as the applicant could not furnish the bank guarantee within the period specified by this court. It was submitted that having regard to the financial condition of the applicant, it was not possible for it to furnish the bank guarantee within the time stipulated under the order dated 08.02.2019 and that having regard to the fact that the applicant has not defaulted in payment of any installment, except for the current month, which default was

occasioned on account of the applicant's bank account being attached by the respondents, the period for furnishing the bank guarantee be extended for a further period of four months. It was submitted that in case the applicant commits any default in payment of installments, the court may grant liberty to the respondent to attach the bank account of the applicant. However, at this stage, the condition for providing bank guarantee may be extended for a further period of four months from today.

7. Mr. Ankit Shah, learned Senior Standing Counsel for the respondent, submitted that the court has granted sufficient time to the applicant for furnishing the bank guarantee. He, however, has not disputed the fact that the applicant has paid first three installments within the time limit stipulated by the court.

8. Having regard to the facts recorded hereinabove, when the amount due and payable is Rs.55,00,000/- and three equal monthly installments have already been paid and the fourth installment could not be paid on account of the bank account of the applicant being attached, the court is of the view that the request of the applicant for extending the period for furnishing the bank guarantee is a reasonable

one, more so, considering the fact that substantial amount out of the outstanding amount has already been paid. However, at the same time, it would also be necessary to protect the interest of the Revenue. Therefore, in case of default on the part of the applicant to pay any further installment, it would be necessary to permit the respondents to resort to the provisions of section 83 of the Central Goods and Services Tax Act, 2017 for attaching the bank accounts of the applicant.

9. For the foregoing reasons, the application succeeds and is, accordingly, allowed. The period for furnishing bank guarantee for a sum of Rs.55,00,000/- (rupees fifty five lakhs), as directed vide order dated 08.02.2019, is extended for a further period of FOUR MONTHS from today. In case the applicant makes any default in making payment of any of the installments, it would be open for the respondent to resort to the provisions of section 83 of the Central Goods and Services Tax Act, 2017. Rule is made absolute accordingly with no order as to costs.

(HARSHA DEVANI, J)

(A. P. THAKER, J)

PRAVIN KARUNAN