

**NATIONAL COMPANY LAW APPELLATE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI
I.A. No. 288 of 2022**

**In
T.A.(AT) (Compt.) No. 01 of 2017
(Old Appeal No. 82 of 2015)**

IN THE MATTER OF:

Verifone India Sales Pvt. Ltd.

....Appellant

Vs.

Competition Commission of India & Anr.

...Respondents

Present

For Appellant: Mr. Rajshekhar Rao, Sr. Advocate with Ms. Chandni Anand and Mr. Ritwik Bhattacharya, Advocates.

**For Respondents: Ms. Shama Nargis (Deputy Director Law, CCI)
Mr. Febin M Varghese, Mr. Robin R David, Advocates
for R-1.CCI.
Mr. Sahil Khanna, Advocate for R-2.**

**O R D E R
(Virtual Mode)**

01.02.2022: Heard both sides.

According to the Learned Senior Counsel for the Applicant/Appellant, the Applicant/Appellant has preferred the instant TA (AT)(Compt.) Appeal No. 01 of 2017(Old Appeal No. 82 of 2015) before this Tribunal being aggrieved against the order dated 10.04.2015 passed by the R-1/CCI in Case no. 56 of 2012.

It is represented on behalf of the Applicant/Appellant that on 30.07.2015, this 'Tribunal' issued notice on the 'Appeal' and was pleased to grant an 'Interim stay' on the R1's impugned order (including a stay on the payment of penalty of Rs. 4.48 Crores) during the pendency of the 'Appeal'.

In this connection, the Learned Senior Counsel for the Applicant/Appellant adverts to the fact that the 'stay' was granted subject to the condition that the Applicant/Appellant would deposit 10% of the penalty sum with the Registry of this 'Tribunal' by way of 'Fixed Deposit'. Pursuant to the order passed by this 'Tribunal', the Applicant/Appellant was perforced to 'Deposit' the requisite FD Certificate before the 'Registry', which was renewed from time to time.

The Learned Senior Counsel for the Applicant/Appellant takes a stand that on 13.03.2020, this Tribunal had passed the Judgment in the TA (AT) Compt. Appeal 01 of 2017 (Old Appeal No. 82 of 2015) whereby and where under the 'Appeal' came to be dismissed and resultantly the R1's impugned order was upheld.

The Learned Senior Counsel for the Applicant/Appellant brings it to the notice of this 'Tribunal' that on 29.09.2020, the Applicant/Appellant filed an 'Appeal' against the Judgment of this 'Tribunal' in TA (AT) Compt. Appeal 01 of 2017 (Old Appeal No. 82 of 2015) before the Hon'ble Supreme Court of India in Civil Appeal No. 3339 of 2020 and on 05.10.2020, the Hon'ble Supreme Court had admitted the "Civil Appeal" and granted a stay on the 'payment of penalty' imposed on the Applicant/Appellant, under the R-1/CCI order, without requiring deposit of any 'Penalty Amount' (whether before the Hon'ble Supreme Court or before this Tribunal).

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The Learned Senior Counsel for the Applicant/Appellant points out that the Applicant/Appellant filed the instant I.A. No. 288 of 2022 in TA (AT) (Compt.) No. 01 of 2017 (Old Appeal No. 82 of 2015) after moving the 'Office of the Registry' and based on the plea put forward on behalf of the Applicant/Appellant that the original Fixed Deposit in the captioned matter is to be returned to it, in view of the fact that the Hon'ble Supreme Court while admitting the Civil Appeal No. 3339 of 2020 had granted stay on the payment of penalty imposed on the Applicant by virtue of the impugned order, without requiring deposit of any penalty amount.

Per contra, it is a submission of Learned Counsel for the R-1/CCI that the Civil Appeal No. 3339 of 2020 is admittedly pending as on date before the Hon'ble Supreme Court and viewed in that perspective, the remedy open to the Applicant/Appellant is to move the Hon'ble Supreme Court of India for redressal of its grievance.

This Court has heard the Learned Senior Counsel for the Applicant/Appellant as well as the Learned Counsel appearing for the R-1/CCI and notice their Contentions.

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It is to be pointed out that the Time Deposit Amount is Rs. 51,86,163.09/- , the value date being 04.12.2019, the interest rate 3.75% P.A., the tenure (Days) is 183 and the Maturity date was on 04.06.2020, the Maturity amount is Rs. 52,83,670.06/- and that the FDR(Deposit reference 00341413) is in the safe custody of the 'Office of the Registry'.

After giving anxious considerations to the rival contentions advanced on either side, this 'Tribunal' at this stage simpliciter, is of the earnest opinion that the 'probity', 'propriety', 'sobriety' and 'comity of Judicial discipline' require (because of the pendency of the Civil Appeal No. 3339 of 2020 before the Hon'ble Supreme Court of India) that the proper and prudent course of action for the Applicant/Appellant is to approach the Hon'ble Supreme Court of India and to seek appropriate remedy for redressal of its grievance, as regards the Original FD Certificate in the captioned 'Appeal'. Resultantly, the instant application fails.

In fine, I.A. No. 288 of 2022 in T.A. (AT) (Compt.) No. 01 of 2017 (Old Appeal No. 82 of 2015) is dismissed. No costs.

[Justice M. Venugopal]
Member (Judicial)

[V.P. Singh]
Member (Technical)

[Dr. Ashok Kumar Mishra]
Member (Technical)

sr/gc

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