

**IN THE COURT OF SH. BHARAT PARASHAR,
SPECIAL JUDGE (PC ACT) (CBI)
ROUSE AVENUE DISTRICT COURTS, NEW DELHI.**

**CC No. 252/2019 (Old CC Nos. 94/2016 & 07/15)
RC No. 219 2014 E 0025
Branch: CBI/EO-I/New Delhi
CBI Vs. M/s Adhunik Corporation Ltd. & Ors.
U/s. 120-B r/w Section 420/468/471 IPC**

07.08.2020.

ORDER

APPLICATION DATED 20.07.2020 BY AND ON BEHALF OF THE APPLICANT/ACCUSED NO. 1 M/S ADHUNIK CORPORATION LTD. THROUGH ITS AUTHORIZED SIGNATORY FOR REQUESTING THE COURT TO DECIDE THE OBJECTION FORTHWITH RAISED BY THE ACCUSED QUA THE DOCUMENTS MARKED AS EXHIBIT BY THE PROSECUTION WITNESS IN EVIDENCE.

1. Vide the present application, Ld. Counsel Sh. Vijay Aggarwal for applicant/accused M/s Adhunik Corporation has submitted that the objections as were raised during the course of recording of prosecution evidence qua the exhibition of documents sought to be proved by prosecution may be decided before the statement of accused persons u/s 313 Cr. PC is recorded. In substance, the submission of Ld. Counsel Sh. Vijay Aggarwal is that in the statement of accused persons u/s 313 Cr. PC only legally admissible evidence and legally proved documents be put.

2. Before adverting further, it would be however worthwhile to mention the brief facts of the case and the proceedings which have taken place till now.

With respect to allocation of "*Patrapara Coal Block*" in favour of M/s Adhunik Corporation Limited (*hereinafter referred to as M/s ACL*), CBI chose to register a regular case after a preliminary enquiry was instituted on the recommendation of Central Vigilance Commission (CVC). Upon

completion of investigation, CBI filed a final report charge-sheeting accused company M/s Adhunik Corporation Ltd (A-1), Nirmal Kumar Agarwal (A-2), Mahesh Kumar Agarwal (A-3) and Ghanshyam Das Agarwal (A-4). However, vide a detailed order dated 19.12.2015, this Court took cognizance of the offences u/s 120-B/420/468 and 471 IPC along with substantive offences thereof only against three accused persons i.e. A-1 company M/s Adhunik Corporation Ltd, A-2 Nirmal Kumar Agarwal and A-3 Mahesh Kumar Agarwal. No cognizance for any of the offences was however taken against accused Ghanshyam Das Agarwal (A-4) as it was found that there was no sufficient incriminating evidence on record which could warrant his summoning. Accused Ghanshyam Das Agarwal was accordingly discharged at the stage of cognizance itself.

3. After the accused persons had put in their appearance, the copies of final report along with the documents and statement of witnesses relied upon by CBI were duly supplied to the accused persons u/s 207 Cr. PC. Arguments on the point of charge were thereafter heard and vide a detailed order dated 06.02.2017 charges for various offences were framed against the accused persons. The case was thereafter adjourned for recording of prosecution evidence and in all twenty-two (22) witnesses were examined by the prosecution beside also leading evidence of six (6) other witnesses by way of affidavit u/s 296 Cr. PC, as their deposition was of formal character only. The accused persons were however given opportunity to cross examine the said witnesses, if they wish to.

4. During the course of recording of deposition of various prosecution witnesses, a number of objections were however raised by Ld. Counsels for the accused persons either as to the admissibility of any given document or as to the mode of proof of a document and the said objections were duly recorded in the deposition of said witnesses itself with a view that a decision qua the same will be taken at the time of final judgment. Accordingly, after completion of prosecution evidence as the record of the case was voluminous and the statements u/s 313 Cr. PC of the accused persons were bound to be lengthy, so on the request of Ld. Counsels for the accused persons, the questions to be answered in statement of

accused u/s 313 Cr. PC by the accused persons were made available to them in soft copy. The accused persons were given liberty to write their answers and submit the same to the court. It was in the aforesaid process when the questions were supplied to the accused persons for furnishing their answers, that Ld. Counsel Sh. Vijay Aggarwal for applicant/accused company M/s Adhunik Corporation Ltd., came up with the present application.

5. It has been vehemently argued by Ld. Counsel Sh. Vijay Aggarwal that as various objections (mentioned in para 3 of the present application) raised by accused persons during the course of recording of prosecution evidence have not yet been decided by the Court, so it will be appropriate that only evidence which is found to be admissible and has been legally proved in accordance with the provisions of Indian Evidence Act, 1872 are put to the accused persons in their statements u/s 313 Cr. PC. Ld. Counsel further submitted that an objection on the ground that the evidence sought to be tendered is not relevant under sections 5 to 55 of the Indian Evidence Act or is not admissible under law should be decided forthwith/reasonable time before proceeding further in the interest of justice so as to do complete justice to the accused persons. Ld. Counsel further submitted that if the mode of proof of a document is objected to and the objections are not decided at this stage of the matter then it will result in putting inadmissible and tentative evidence to the accused persons in their examination u/s 313 Cr. PC. It was also submitted that in such a situation the accused would be in a lurch as to how he would counter the documents whose admissibility is still not proved and the same will resultantly prolong the trial. It has been submitted that u/s 313 Cr. PC accused is required to give his statement with respect to only such evidence as has been legally proved on record by the prosecution. Ld. Counsel has accordingly prayed that the objections raised during recording of prosecution evidence be decided before the accused persons are called upon to answer questions u/s 313 Cr. PC. Ld. Counsel in support of his arguments not only relied upon **Part 3 Chapter 1 of Delhi High Court Rules** but also on the following case law:

SR. NO.	TITLE	CITATION
1	SHALIMAR CHEMICAL WORKS LIMITED VS. SURENDRA OIL AND DAL MILLS (REFINERIES) AND ORS.	2010 [8] SCC 423.
2	U. SREE VS U. SRINIVAS.	2013 [2] SCC 114.
3	M/S NEXUS MINMET MERCHANDISING PRIVATE LIMITED & ORS. VS. STATE & ANR.	2015 SCC ONLINE BOM 3098.
4	H. SIDDIQUI (DEAD) BY LRS. VS. A. RAMALINGAM.	2011 (4) SCC 240.
5	ARUL MARY VS. SANTHAPPAN.	2013-1-L.W. 1015.
6	R.V.E. VENKATACHALA GOUNDER VS ARULMIGU VISWESARASWAMI & V.P. TEMPLE AND ANOTHER.	2003 [8] SCC 752.
7	SMT TAQDIRUNNISA & ANR. VS. 1 ST ADDITIONAL DISTRICT JUDGE, ALLAHABAD & ORS.	2006[63] ALR 31.
8	DAYAMATHI BAI (SMT) VS. K. M. SHAFFI.	2004(7) SCC 107.
9	GOPAL DAS & ANR. V. SRI THAKURJI & ORS.	AIR 1943 PC 83.
10	ALACS FINANZ LTD. VS. M/S OKSH TECHNOLOGIES.	AIR 2005 DEL 376.
11	OM PRAKASH VS. CBI.	2017 SCC ONLINE DEL 10249.
12	STATE (DELHI ADMINISTRATION) VS. BRIJ MOHAN.	1985 (8) DRJ 223.
13	SMT. SHAIL KUMARI VS. SMT. SARASWATI DEVI.	(2002) 96 DLT 131.
14	HEMANT RASIKLAL GHIA VS SUBIDH MODY.	2008 (6) MHLJ 8867.
15	BIPIN SHANTILAL PANCHAL VS STATE OF GUJARAT & ANOTHER.	(2001) 3 SCC 1
16	GEETA MARINE SERVICES VS. STATE.	2009 CRI.L.J. 910.
17	SURENDER BALA VS SANDEEP FOAM INDUSTRIES PVT. LTD.	AIR 2000 DELHI 300.
18	STATE (DELHI ADMINISTRATION) VS. VIRENDER KUMAR & ORS.	IN THE HIGH COURT OF DELHI IN CRL .A. NO.244 OF 1987 JUDGMENT DELIVERED ON JUNE 11TH, 2008.
19	SHAUKAT VS. RAZZAK.	2017 [3] CDR 1690 (RAJ).
20	STATE OF UP VS. RAJ NARAIN.	1975 (4) SCC 428.
21	PC PURSHOTHAMA REDDIAR VS S PERUMAL,	1972(1) SCC 9.
22	SONU @ AMAR VS. STATE OF HARYANA.	2017 [8] SCC 570.
23	JAVER CHAND AND OTHER VS PUKHRAJ SURANA.	AIR 1962 SC 1655.
24	AMARJIT SINGH & ANR VS	2017 SCC ONLINE DEL 7147.

	SURINDER SINGH & ANR.	
25	UNITED PHOSPORUS LTD. VS. SUNITA NARAIN AND ANOTHER.	2011 CRI.L.J. 2077.
26	REENA HAZARIKA VS. STATE OF ASSAM.	2019 (13) SCC 289.
27	GUJARAT AMBUJA CEMENTS LTD VS. MRTP COMMISSION & ORS.	2006 SCC ONLINE DEL 936.
28	ARJUN PANDITRAO KHOTKAR V KAILASH KUSHANRAO GORANTYAL & ORS.	CIVIL APPEAL NOS. 20825 & 20826 OF 2017 - JUDGMENT DATED 14.7.2020.
29	PARMINDER KAUR @ P.P. KAUR @ SONI VERSUS STATE OF PUNJAB.	CRIMINAL APPEAL NO. 283 OF 2011 DECIDED ON 28.07.2020.
30	KALI RAM VS. STATE OF HIMACHAL PRADESH.	(1974 CRI.L.J. 1).
31	MALAY KUMAR GANGULY VS. SUKUMAR MUKHERJEE AND ORS.	(07.08.2009 SC): MANU/SC/1416/2009.
32	SEBASTIAO LUIS FERNANDES (DEAD) THROUGH L.RS. AND ORS. VS. K.V.P. SHASTRI (DEAD) THROUGH L.RS. AND ORS.	(2013) 15 SCC 161.
33	NARMADA BACHAO ANDOLAN AND ORS. VS. STATE OF MADHYA PRADESH AND ORS.	(2011) 7 SCC 639.
34	K. RAMACHANDRAN VS. D. KABALEESWARAN & ORS.	(06.05.2013-SC): MANU/SCOR/24283/2013.
35	D.D.A. AND ORS. VS. RAM KAUR AND ORS.	(20.04.2017-DELHC): MANU/DE/1069/2017.
36	ROMAN CATHOLIC MISSION V. STATE OF MADRAS.	MANU/SC/0253/1966: AIR 1966 SC 1457.
37	STATE OF RAJASTHAN V. KHEMRAJ.	MANU/SC/0857/2000: (2000) 9 SCC 241.
38	LIC VS. RAM PAL SINGH BISEN.	MANU/SC/0170/2010: (2010) 4 SCC 491.
39	M. CHANDRA V. M. THANGAMUTHU.	MANU/SC/0721/2010: (2010) 9 SCC 712).
40	SMT. RAM KAUR & ORS. VS. DDA & ORS.	SLP (C) NOS. 15132-15133/2017.
41	KALIYA VS. STATE OF MADHYA PRADESH.	(23.07.2013-SC): MANU/SC/0762/2013.
42	RASIKLAL MANIKCHAND DHARIWAL AND ANR. V. M.S.S. FOOD PRODUCTS.	MANU/SC/1408/2011: (2012) 2 SCC 196).
43	SUNIL MEHNDIRATTA VERSUS UNION OF INDIA.	2002 JCC 247.
44	RAJENDRA KUMAR SITARAM PANDE V UTTAM.	REPORTED IN 1999 SCC (CRI) 393.
45	K. MALLESH VS. K. NARENDER AND ORS.	PASSED IN CIVIL APPEAL NOS. 6841-6842 OF 2008 ON 15.10.2015.
46	LAXMI DEVI VS. STATE OF BIHAR AND ORS.	2015 [10] SCC 241.

6. On the other hand, the application has been strongly opposed by Ld. Senior PP Sh. A.P. Singh. It has been submitted that the law as regard decision on the objections raised during recording of prosecution evidence has been well settled by Hon'ble Supreme Court in the case ***Bipin Shantilal Panchal vs State of Gujarat & Another, (2001) 3 SCC 1.*** It was submitted that in accordance with the procedure laid down by Hon'ble Supreme Court in the said case, all such objections have been duly recorded by the Court during the course of recording of prosecution evidence and thus the Court should not delay the trial by first deciding the said objections. He also pointed out that a similar application moved by Ld. Counsel Sh. Vijay Aggarwal in another case titled *CBI vs Grace Industries* has already been dismissed by this court. Ld. Senior PP in support of his submissions placed reliance upon the following observations of Hon'ble Supreme Court in the case ***Bipin Shantilal Panchal (Supra)***:

“12. As pointed out earlier, on different occasions the trial judge has chosen to decide questions of admissibility of documents or other items of evidence, as and when objections thereto were raised and then detailed orders were passed either upholding or overruling such objections. The worse part is that after passing the orders the trial court waited for days and weeks for the parties concerned to go before the higher courts for the purpose of challenging such interlocutory orders.

13. It is an archaic practice that during the evidence-collecting stage, whenever any objection is raised regarding admissibility of any material in evidence the court does not proceed further without passing order on such objection. But the fall out of the above practice is this: Suppose the trial court, in a case, upholds a particular objection and excludes the material from being admitted in evidence and then proceeds with the trial and disposes of the case finally. If the appellate or the revisional court, when the same question is re-canvassed, could take a different view on the admissibility of that material in such cases the appellate court would be deprived of the benefit of that evidence, because that was not put on record by the trial court. In such a situation the higher court may have to send the case back to the trial court for recording that evidence and then to dispose of the case afresh. Why should the trial prolong like that unnecessarily on account of practices created by ourselves. Such practices, when realised through the course of long period to be hindrances which impede steady and swift progress of trial proceedings, must be recast or re-moulded to give way for better substitutes which would help acceleration of trial proceedings.

14. When so recast, the practice which can be a better substitute is this: Whenever an objection is raised during evidence-taking stage

regarding the admissibility of any material or item of oral evidence the trial court can make a note of such objection and mark the objected document tentatively as an exhibit in the case (or record the objected part of the oral evidence) subject to such objections to be decided at the last stage in the final judgment. If the court finds at the final stage that the objection so raised is sustainable the judge or magistrate can keep such evidence excluded from consideration. In our view there is no illegality in adopting such a course. (However, we make it clear that if the objection relates to deficiency of stamp duty of a document the court has to decide the objection before proceeding further. For all other objections the procedure suggested above can be followed.)”

(emphasis supplied by me)

7. Ld. Senior PP Sh. A.P. Singh in order to buttress his arguments further also placed reliance upon the following case law:

S. No.	Case title	Citation
1	State through Special Cell Vs. Navjot Sandhu	(2003) SCC (Cri.) 1545
2	Sri Kathi Narsinga Rao Vs. Kodi Supriya and Another	(Decided on 29.09.2016) by Hon'ble High Court of Andhra Pradesh
3	G. Sudhaker Reddy Vs. M. Pullaiah	(Decided on 06.03.2015) by Hon'ble High Court of Andhra Pradesh
4	Mr. Mahesh Bora Vs. State of Rajasthan	(Decided on 12.05.2015) by Hon'ble High Court of Rajasthan
5	Bipin Shantilal Panchal vs State of Gujarat & Another	(2001) 3 SCC 1
6	Boman P. Irani v. Manilal P. Gala	2003 SCC Online Bom 945
7	K. Malleash v K. Narendar	(2016) 1 SCC 670

8. In rebuttal Ld. Counsel Sh. Vijay Aggarwal submitted that Hon'ble Supreme Court in the case **R.V.E. Venkatachala Gounder (Supra)** clearly stated that the objections raised during the recording of prosecution evidence and especially objections regarding mode of proof should be decided at the very time when the same are raised. It was submitted by Ld. counsel that if the objections as to the mode of proof are not decided by the court at that very time when any such objections are raised than the party leading the evidence will not know as to whether the evidence led by it or the documents sought to be proved have been accepted by the court as

proved or not. It was further submitted that if such objections are left to be decided at the time of final judgement, then the party who is found to have not led evidence in accordance with the provisions of Indian Evidence Act will have no option to make necessary corrections or to take suitable steps in the matter. While emphasising the importance of the stage of recording of statement of accused persons under section 313 Cr. PC, it was submitted that it is the first stage when the accused is called upon to open up his defence. It was also submitted by Ld. counsel that some of the objections as have been mentioned in the application are only illustrative in nature and a perusal of the prosecution evidence recorded in the present case will show that number of such objections have been taken by the defence. It was also submitted by Ld. counsel that in case this court still finds it appropriate to decide some of the objections such as relating to admissibility at a later stage i.e. at the stage of final judgement, then at least the objections as regard mode of proof be decided at this stage itself and may not be left to be decided at the time of final judgement. It was thus submitted by Ld. counsel that each and every objection raised by the defence at the time of recording of prosecution evidence should be taken into consideration while disposing off the present application. He thus submitted that if such objections are not decided at this stage of the matter, then the accused persons will be greatly prejudiced in their defence.

9. I have carefully perused the record.

10. At the outset, I may state that the submissions of Ld. Senior PP Sh. A.P. Singh certainly carry force as the same are completely in accordance with the directions of Hon'ble Supreme Court as were given in the case ***Bipin Shantilal Panchal (Supra)***. In fact, the procedure adopted by this Court with respect to all the objections as were raised by Ld. Counsels for the accused persons during the course of recording of prosecution evidence, has been completely in accordance with the said directions only. Ld. Counsel for accused/applicant has also not disputed the fact that all the objections have been duly recorded in the deposition of various prosecution witnesses itself.

11. Further, as regard reference to the case **R.V.E. Venkatachala (Supra)** by Ld. Counsel for accused/applicant, I may state that the same is of no help to him as Hon'ble Supreme Court did not state in the said case that such objections should necessarily be decided by the Trial Court at the very time when they are raised. In this regard the observations of Hon'ble Delhi High Court in the case **Gujarat Ambuja Cements Ltd vs. MRTP Commission & Ors, 2006 SCC OnLine Del 936** wherein the observations of Hon'ble Supreme Court as were made in the case **R.V.E. Venkatachala (Supra)** were dealt with, will be worth referring to. It was observed by Hon'ble Delhi High Court in para 11, 12 and 13 of the judgement as under:

*“11. We do not understand the judgment of the Hon'ble Supreme Court in **R.V.E. Venkatachala Gounder (Supra)** to support the plea of the petitioner that the MRTP Commission was bound to first rule on the objection raised by the petitioner as to the admissibility of the evidence produced by the complainants. While its true that in the said decision there is a discussion of the stages where such an objection might be taken, there is nothing to indicate that such objection must be decided as soon as it is raised. In this connection the following passage in the **R.V.E. Venkatachala Gounder** case may be noticed (SCC p. 764):*

“Ordinarily, an objection to the admissibility of evidence should be taken when it is tendered and not subsequently. The objections as to admissibility of documents in evidence may be classified into two classes:- (i) an objection that the document which is sought to be proved is itself inadmissible in evidence; and (ii) where the objection does not dispute the admissibility of the document in evidence but is directed towards the mode of proof alleging the same to be irregular or insufficient. In the first case, merely because a document has been marked as 'an exhibit', an objection as to its admissibility is not excluded and is available to be raised even at a later stage or even in appeal or revision. In the latter case, the objection should be taken when the evidence is tendered and once the document has been admitted in evidence and marked as an exhibit, the objection that it should not have been admitted in evidence or that the mode adopted for proving the document is irregular cannot be allowed to be raised at any stage subsequent to the marking of the document as an exhibit. The latter proposition is a rule of fair play. The crucial test is whether an objection, if taken at the appropriate point of time, would have enabled the party tendering the evidence to cure the defect and resort to such mode of proof as would be regular. The omission to object becomes fatal because by his failure the party entitled to object allows the party tendering the evidence to act on an assumption that the opposite party is not serious about the mode of proof. On the other hand, a prompt objection does not prejudice the party tendering the evidence, for two reasons: firstly, it enables the Court to apply its mind and pronounce its decision on the question of admissibility then and there; and secondly, in the event of finding of the Court on the mode of proof sought to be adopted

going against the party tendering the evidence, the opportunity of seeking indulgence of the Court for permitting a regular mode or method of proof and thereby removing the objection raised by the opposite party, is available to the party leading the evidence. Such practice and procedure is fair to both the parties. Out of the two types of objections, referred to hereinabove, in the latter case, failure to raise a prompt and timely objection amounts to waiver of the necessity for insisting on formal proof of a document, the document itself which is sought to be proved being admissible in evidence. In the first case, acquiescence would be no bar to raising the objection in a superior Court”.

12. The highlighted portion of the above decision only indicates that the Court may rule on the objection as soon as it is raised, and not that it must. That is entirely up to the Court or Tribunal before whom the trial or inquiry is taking place. That element of discretion must be permitted to the Court or Tribunal concerned since the Presiding Officer is in the best position to decide whether a ruling on the evidence is required to be given then and there or at a later stage. The facts and circumstances of the case, the nature of evidence, the conduct of the parties will all be relevant factors to be considered by the Court.

13. The exercise to determine the admissibility of certain documents should not constitute a trial within a trial and unduly delay the final hearing and decision of the matter. In other words, a Court or a Tribunal, which has already commenced the witness action, should be free to decide whether or not it should take up the question of deciding the admissibility of evidence, even before the witness action concludes. Unless the refusal to determine such an issue is ostensibly perverse and would defeat the ends of justice, the High Court in exercise of its supervisory powers under Article 227 of the Constitution of India, ought not to lightly interfere with a decision of the concerned Court or Tribunal.

(emphasis supplied by me)

12. Thus it is clear that the whole purpose of raising objections by the opposite party to the exhibition of any document be it qua the admissibility of the document or qua the mode of proof of the document is primarily to put the party leading the evidence at notice that the opposite party is objecting to the exhibition of the said document on either of the aforesaid two grounds or on both. Certainly, when the objection raised is qua the admissibility of a document then the said issue is to be decided keeping in view the fact as to whether the said fact or the document is logically as well as legally relevant to the facts in issue or not. It is for this reason, it has been held that the objections as to the admissibility of a document can even be raised at a later stage or even before the Appellate Court by a party. Contrasting thereto when an objection is raised as regard

the mode of proof then the party leading the evidence is put to notice that the opposite party is raising objection as to the method or mode of proving the said document. It is for this reason, the objection as regard the mode of proof of a document needs to be raised at the very time when the document is sought to be tendered in evidence and is being exhibited. In such a situation the party leading the evidence will certainly take necessary steps to overcome such an objection, if it feels that the objection being raised by the opposite party as regard the mode of proof of a document are valid in the eyes of law. Undoubtedly, such objections be it as regard the admissibility or as regard the mode of proof of a given document has to be decided by the Court within the four corners of the provisions of Indian Evidence Act, 1872. Thus, it goes without saying that if any such objection has been raised by a party, then the party leading the evidence and seeking to prove the said document(s) certainly runs the risk of a finding by the Court, may be at a later stage, holding that the document(s) in question have not been proved in accordance with the provisions of Indian Evidence Act, 1872 and thus can't be taken into consideration. However in my considered view and as is also evident from the observations of Hon'ble Delhi High Court in the case ***Gujarat Ambuja Cements Ltd vs. MRTP Commission & Ors (supra)***, it is for the parties to lead their respective evidence in accordance with law and the Court need not to halt its proceedings i.e. the trial to decide such objections at every stage whenever the same are raised. Entering into such an exercise on every occasion whenever such an objection is raised will clearly halt the trial and in fact the same will result in multiple trials within the trial. It was this very tendency or practice which has been sought to be curbed by Hon'ble Supreme court and Hon'ble High Court. The court has to be in fact more cautious in trial of cases like the present one, for otherwise the deposition of the witnesses who on most of the occasions are residents of outside Delhi will not be completed on the day he/she appears and the process of recording of testimony will have to be repeatedly halted/adjourned for deciding one or the other objection(s), which as experience shows are routinely raised. Certainly, the Court while recording evidence needs to be vigilant that

unnecessary and completely irrelevant evidence is not allowed to be led by a party so as to merely prolong the trial or to harass the other party. However, in case any objection(s) are raised during the process of recording of evidence then the Court may choose to decide such objections either at the very time when the same are raised or if the facts and circumstances of the case so warrant, it may after recording all such objections leave them to be decided at the time of final judgment. Ld. Counsels will be thus free to address arguments on all such objections if they choose to do so at the time of addressing final arguments.

13. It was for these very considerations, Hon'ble Supreme Court in the case ***Bipin Shantilal Panchal (Supra)*** directed that deciding such objections at the very time when the same are raised by a party will not only consume the time of the Court but will also halt further recording of evidence and thereby resulting in delay of trial. Accordingly, Hon'ble Supreme Court laid down the procedure to be followed by trial courts while recording evidence. At the cost of repetition, it will be thus appropriate to once again refer to Para 14 of ***Bipin Shantilal Panchal (Supra)*** case.

*“14. When so recast, the practice which can be a better substitute is this: Whenever an objection is raised during evidence-taking stage regarding the admissibility of any material or item of oral evidence the trial court can make a note of such objection and mark the objected document tentatively as an exhibit in the case (or record the objected part of the oral evidence) subject to such objections to be decided at the last stage in the final judgment. If the court finds at the final stage that the objection so raised is sustainable the judge or magistrate can keep such evidence excluded from consideration. In our view there is no illegality in adopting such a course. (However, we make it clear that if the objection relates to deficiency of stamp duty of a document the court has to decide the objection before proceeding further. **For all other objections the procedure suggested above can be followed.**)”*

(emphasis supplied by me)

14. The aforesaid observations of Hon'ble Supreme Court and the procedure so laid down has been consistently followed by Higher Courts of the land. Though Ld. Counsel Sh. Vijay Aggarwal for applicant/accused M/s Adhunik Corporation Ltd. referred to various decisions of Hon'ble High Court of Bombay and other High Court's to support his argument that

objections raised during the course of recording of prosecution evidence should be decided by the Court at the very stage when the same are raised. Ld. counsel also submitted that the interpretation of **R.V.E. Venkatachala (Supra)** case by Hon'ble Delhi High Court in **Gujarat Ambuja Cements (supra)** case is not correct and in view of the categorical observations made by Hon'ble Supreme Court in the case **R.V.E. Venkatachala (Supra)** and in other cases, wherein the said decision has been followed, this court should follow **R.V.E. Venkatachala (Supra)** and thereby decide the objections raised during the course of recording of prosecution evidence forthwith.

15. Before advertizing further, I may however state that this court is not only bound by the interpretation of the observations of Hon'ble Supreme Court in the case **R.V.E. Venkatachala (Supra)** as has been done/explained by Hon'ble Delhi High Court but even otherwise does not find any reason or ground to arrive at any contrary conclusion. Insofar as various other case law of different High Court's as have been relied upon by Ld. counsel for accused applicant company are concerned, I am of the considered opinion that the issue under consideration has been well settled by Hon'ble Delhi High Court recently in yet another case and pursuant to which there does not arise any need to delve any further into the present issue or to refer to the other case law relied upon by Ld. Counsel for accused applicant company.

16. In the case **Prakash Oil Corporation and Another vs. Brij Kishan CM (M) 1002/2018 and CM APPL. 34738/2018 Decided on October 1, 2019** Hon'ble Delhi High Court has in very clear words settled the course of action to be followed by the courts in Delhi as regard the objections raised during the recording of evidence are concerned. In the said case a similar issue was raised by the petitioners and the Hon'ble High Court while dealing extensively with various pronouncements of Hon'ble Apex court and that of other Hon'ble High Courts has categorically observed that insofar as Delhi High court is concerned, the view consistently has been that the objections can be recorded at the time of recording of evidence and can be decided at the final stage. It will be thus

appropriate to reproduce the relevant portion of the said judgement for a ready reference:

*“2. The issue raised by the Id. counsel for the Petitioners is that the objections as to inadmissibility or mode of proof of a document exhibited by a witness ought to be determined by the Court prior to the commencement of the cross-examination itself. The exhibit marking ought not to be given mechanically by the Court, as that would seriously prejudice the case of the party conducting the cross-examination, inasmuch as the cross-examination would also extend to those documents in respect of which objections have been raised. Id. counsel submits that forcing cross-examination in this manner, in respect of documents which have not been proved and are not even admissible in accordance with law, tends to protract the trial and also leads to the taking on record of various documents which are exhibited in a completely mechanical manner. He relies on a Full Bench judgment of the Bombay High Court in **Hemendra Rasiklal Ghia v. Subodh Mody [W.P. 623/2005, decided on 16th October, 2008]** which considers the amendment to Order XVIII of the Civil Procedure Code, 1908 (hereinafter, “CPC”), as also various judgments of the Supreme Court in this regard.*

*3. On the other hand, Id. counsel for the Respondent submits that the question as to whether a document is to be taken on record or not, would have to be postponed to the final stage. The rationale behind this is that if a decision on every document, as to inadmissibility or mode of proof, is taken during the course of trial, this would result in vested rights being created in favour of either party and would make the order appealable, potentially resulting in a substantial delay in the trial. He relies upon two judgments of this Court in **Exide Industries Ltd. v. Exide Corporation USA, 2014 (58) PTC 200 (Del)** as also **Xerox Corporation v. P.K. Khansaheb [CS (COMM) 1196/2016, decided on 3rd December, 2018]**.*

4. As is evident from the extract above, the Id. Trial Court has observed that if the document which is exhibited is not proved in accordance with law, either because it is inadmissible or because the mode of proof is not as per law, the Court would take a decision on the same at the time of final arguments. In such a situation, it is understood that the cross-examination relating to the said document would not be relevant until the document is to be considered at the final stage.

5. This Court has to therefore determine whether the admissibility and mode of proof of the exhibited document is to be decided at the final stage or during the trial itself - at the time when the exhibit mark is being put on the document.

6. Order XIV Rule 4 CPC deals with examination-in-chief and cross-examination. The scheme of Order XIV Rule 4 CPC, after the amendment in 2002, is that the examination-in-chief of the witness would be done by affidavit and in respect of documents which are filed with the affidavit, the proof and admissibility of such documents shall be subject to the orders of the Court. At the same time, Order XIV Rule 4 CPC also records that the Commissioner, who may be appointed for recording the evidence, should record the demeanour of the witness and any objections raised during the course of the

examination-in-chief or cross-examination and the same would be determinable by the Court at the stage of arguments. A combined reading of Order XIV Rule 1 and Rule 4 of the CPC shows that the intention is that the trial of the suit not be delayed in any manner and be proceeded with diligently before the Commissioner or before the Court.

7. The apprehension raised by the Petitioners is, however, not without any basis inasmuch as the Commissioner would be recording the objection in respect of the non-admissibility/lack of proof of the documents and the party who is cross-examining the witness has to, without prejudice, conduct the cross-examination. This apprehension has been dealt with by the Bombay High Court in the judgment cited by the Petitioners.

*8. The question of how to conduct proceedings in a trial when documents are objected to on the ground of admissibility and mode of proof is a vexed question inasmuch as dealing with objections at that stage could considerably delay the trial and on the other hand if the objections are not dealt with, it could lead to a lengthier cross-examination. The judgment of the Supreme Court in **Bipin Shantilal Pancha v. State of Gujarat, (2001) 3 SCC 1**, observes as under:*

“ ...

When so recast, the practice which can be a better substitute is this: Whenever an objection is raised during evidence-taking stage regarding the admissibility of any material or item of oral evidence the trial Court can make a note of such objection and mark the objected document tentatively as an exhibit in the case (or record the objected part of the oral evidence) subject to such objections to be decided at the last stage in the final judgment. If the court finds at the final stage that the objection so raised is sustainable the Judge or Magistrate can keep such evidence excluded from consideration. There is no illegality in adopting such a course.

However, if the objection relates to deficiency of stamp duty of a document the Court has to decide the objection before proceedings further. For all other objections the procedure suggested above can be followed.”

9. Thus, the Supreme Court has observed that the procedure which could be adopted would be to record objections in respect of any document during the examination-in-chief, permit the cross-examination to continue and thereafter, decide any objections in respect of the said documents at the stage of final arguments.

*10. In fact, it is this very procedure which has been suggested as being the best procedure to be followed, by a Id. Division Bench of this Court in **Exide Industries Ltd. v. Exide Corporation USA (supra)**. In this case, the Id. Division Bench permitted documents annexed to the affidavit in evidence to be taken on record and directed the objections to be recorded and cross-examination to be conducted without prejudice to the objections. The observation of the Id. Division Bench in **Exide Industries Ltd. v. Exide Corporation USA (supra)** is as under:*

“6. In our opinion, the appeal is premature inasmuch as the question whether the documents should at all be received or accepted as evidence is a matter that can be decided by the learned Single Judge at the time of final hearing of the case. Presently, no serious prejudice is caused to any of the parties if cross-examination of the witness is conducted by the Appellant on the basis of the documents attached to the affidavit by way of evidence. Needless to say that the Local Commissioner would be obliged to record the objections that the Appellant has to the reception of these documents.

7. The issue whether the documents should at all be received and their admissibility will, of course, be decided by the learned Single Judge at the time of final hearing of the case. We need not express any opinion on this, one way or the other.”

11 The above two judgments have also been followed by this Court in **Xerox Corporation v. P.K. Khansaheb (supra)**.

12. The judgment of the Bombay High Court in **Hemendra Rasiklal Ghia v. Subodh Mody (supra)** has extensively dealt with the procedure to be adopted in the case of exhibition of documents. The Court has categorised documents into three types -

(i) documents where the objection of stamp duty is raised;

(ii) documents where the objection is in respect of mode of proof;

(iii) documents where the objection is in respect of inadmissibility in evidence.

13. Insofar as the category (i) documents are concerned, the High Court has held that the said documents cannot be exhibited until the objection as to stamp duty is judicially determined. This is a consistent position, as held by the Supreme Court in **Bipin Shantilal Panchal (supra)**. Insofar as the second category of documents are concerned, the Bombay High Court has held that such objections have to be raised at the time when the document is sought to be tendered in evidence. The same ought to be decided at that stage and only then cross-examination should proceed further. This, according to the High Court, would give adequate opportunity to the party tendering the document to address the objection(s) raised. In respect of the third category of documents, the High Court holds that the said objections can be raised at any stage. However, the Court finally concludes as under:

“**95.** However, by way of exception, the objection relating to the admissibility of the document requiring resolution of complex issues, having effect of arresting progress of the matter, or if the admissibility of the evidence is dependent on receipt of further evidence, then, in such cases the trial Court can, in the interest of justice, defer the issue of deciding admissibility of the document. In **Ram Ratan v. Bajarang Lal (supra)**, the Supreme Court has also observed that in a given circumstance a document can be exhibited with the endorsement made by the learned trial Judge “objected, allowed subject to objection”, clearly indicating that the objection has not been judicially determined and the document was tentatively marked. This procedure is to be followed only in

exceptional circumstances. Ordinarily, the objection to the admissibility of the document should be decided as and when raised without reserving the question as to admissibility of the document until final judgment in the case. We may make it clear that omission to object to a document, which in itself is inadmissible in evidence, would not constitute such document in evidence. It is also duty of the Court to exclude all irrelevant evidence even if no objection is taken to its admissibility by the parties. The question of relevancy of the document being a question of law can be raised and decided at any stage of the proceeding.

96. *The cases; wherein Court Commissioner is appointed to record cross-examination, the Court may decide the question of admissibility of document or proof of such document before the matter is sent for recording of evidence to the Commissioner in the form of cross-examination or re-examination or, in a given case, the Court may decide that question at a subsequent stage. The Court, obviously, has a discretion of recording cross-examination and re-examination itself. During the cross-examination, if the document is produced and the question leading to its admissibility is raised, then, the Commissioner cannot rule the point as to admissibility of the evidence. In such case, the Court Commissioner is expected to record objection and can give tentative exhibit to the document subject to the decision of the Court. The Court would then be obliged to decide the question before the judgment is delivered so that the party producing evidence could not be deprived of its right to tender evidence or an opportunity of producing fresh evidence or opportunity of making up defects which in many cases could be remedied, if he is told that the objection is allowed.*

97. *The different cases will have different facts. Each case must be dealt with on its own facts. No straitjacket formula can be evolved. The Civil Procedure Code has been amended from time to time in order to meet the changing situations. The Courts trying the suit or proceedings involving peculiar facts do have a discretion to work out its own procedure and determine the stage of deciding the admissibility of the documents for the reasons to be recorded, if it advances the cause of justice without causing prejudice to the rights of either of the parties. The discretion should not be used fancifully. It is quite possible that sometimes when party fails to substantiate the allegations, he may resort to dilatory tactics to harass the opponent by filing irrelevant and frivolous documents to prolong the continuance of the case. This should be checked by exercising power available with the Court. As already said, procedure is always evolved to serve the ends of justice and to avoid miscarriage of justice.”*

14. *A perusal of the above shows that the view of the Bombay High court relied upon by the Ld. Counsel for the Petitioner, is not an absolute view. The Court has carved out several exceptions when the decision on the objections can be postponed to a later stage. However, insofar as Delhi High court is concerned, the view consistently has been that the objections can be recorded at the time of recording of evidence and can be decided at the final stage, especially if a court commissioner is recording evidence.*

15. This however does not mean that if the court is recording evidence, the Court cannot take a view on mode of proof and/or admissibility at the stage when it is raised. If the court is able to take a view at that stage, there would be clarity. It would depend on the factual circumstances in each case and the perception of the Court if the trial is likely to be delayed. The endeavour always ought to be to conclude the trial as expeditiously as possible. This court is of the view that court has to strike the right balance - allowing objections regarding exhibited documents to be captured in the statement of the witness and permitting cross examination to be conducted without prejudice to the objections raised, would strike the right balance between ensuring that the trial is not protracted and that the rights of the party are also not jeopardised, especially if the court is of the opinion that the objections raised require detailed hearing and adjudication and witnesses ought not to be inconvenienced and summoned repeatedly to the court.

16. In *Sudir Engineering Company v. Nitco Roadways Ltd.*, (1995) 34 DRJ 86, this Hon'ble High Court has clarified that the mere marking of a document as an exhibit does not amount to it being proved. The relevant portion of the judgment is extracted below:

"15. The marking of a document as an exhibit, be it in any manner whatsoever either by use of alphabets or by use of numbers, is only for the purpose of identification. While reading the record the parties and the Court should be able to know which was the document before the witness when it was deposing. Absence of putting an endorsement for the purpose of identification no sooner a document is placed before a witness would cause serious confusion as one would be left simply guessing or wondering while was the document to which the witness was referring to which deposing. Endorsement of an exhibit number on a document has no relation with its proof. Neither the marking of an exhibit number can be postponed till the document has been held proved; nor the document can be held to have been proved merely because it has been marked as an exhibit."

17. Thus, even if a document is given an exhibit number it does not mean that the same has to be read in evidence. The exhibit marking is subject to objections which have to be adjudicated.

18. The only question that remains is that once the objections are recorded, how is the Trial Court to proceed with the final arguments. Once the trial concludes and the cross-examination has been conducted by the parties, without prejudice to the objections as to the documents, at the stage of final arguments, the Trial Court would hear the objections on the documents first. The court would then take a view on which documents are being considered for the purpose of adjudication of the issues and proceed to hear final arguments. The Court would then give its reasons in the initial part of the final judgment, making clear as to which of the documents are being considered for the purposes of finally adjudicating the issues. Once the adjudication takes place, in a comprehensive manner in the final judgment, both in respect of the documents and the issues framed in the suit, the same could be the subject matter of an appeal which may be preferred by any of the parties. If this procedure is not adopted, trials in the suits would get substantially prolonged and

delayed, which is not the purpose of the amendments to the CPC in 2002 and the Commercial Courts Act, 2015.

19. Ld. counsel for the Respondent has brought to the notice of this Court, the recent Delhi High Court (Original Side) Rules, 2018 (hereinafter, "Original Side Rules") which deal with objections to the exhibition of documents. Chapter XI, Rule 11 of the Original Side Rules reads as under:

"11. Objections to exhibition of documents. - (i) Objection(s) to exhibiting any document or its production, shall be recorded to be decided at the time of decision of the suit/other original proceeding or at such time as the Court considers appropriate. (ii) In case, the Registrar/Commissioner considers that the objection(s) needs to be decided forthwith, he shall place the matter before Court, without delay after recording of reasons for the same."

20. A perusal of the Original Side Rules of this Court also shows that the purpose of the Rules is to ensure that the trial is not prolonged and is concluded in an efficient manner.

21. Thus, in the overall facts and circumstances, there is no infirmity in the order passed by the Id. Trial Court. As already observed, the trial court would take a view in respect of the documents at the final stage. Needless to add, the cross-examination of the witness which may be conducted by the Petitioner, would be subject to the objections in respect of the documents, which shall be adjudicated at the final stage, in accordance with law."

17. Thus, in the aforesaid facts and circumstances and especially in view of the decision of Hon'ble Delhi High Court in the case **Gujarat Ambuja Cements Ltd (Supra)** and the case **Prakash Oil Corporation and another vs. Brij Kishan (supra)** no decision of other Hon'ble High Courts can act as a binding precedent to this Court. It is thus clear that in the given facts and circumstances of a case the court may choose not to decide the objections at the very time when the same are raised and instead after recording them in the deposition of the concerned witness, wherein the same are raised, choose to decide them at the time of final judgement. The aforesaid observations of Hon'ble Delhi High Court hold ground both in civil as well as criminal matters. In fact, Ld. counsel for accused applicant himself has cited a number of case law, wherein the Hon'ble courts have made various observations while dealing with civil matters. He also relied upon the case titled- **Om Prakash vs Central Bureau of Investigation, 2017 SCC Online Del. 10249**, wherein Hon'ble Delhi High Court inter-alia made the following observations:

“5.14. From the conjoint reading of the provisions of Evidence Act and as held in the various decisions of the Supreme Court noted above, it is evident that mode of proof of a document is distinct from standard of proof. The mode of proof of a document which is governed by Section 63 to 65 and 65B Indian Evidence Act in case of electronic evidence remains the same whether it is a civil or a criminal proceeding and can be waived off unless the document is per-se inadmissible in evidence as then the objection before the Appellate Court would be to the admissibility of the document and not to the mode of proof of the document. Having not objected to the mode of proof of an admissible document during the trial, the party is, whether in civil or criminal proceeding, is estopped from challenging the mode of proof thereon. The concept of mode of proof of a document cannot be confused with standard of a proof which is proof beyond reasonable doubt in a criminal proceeding whereas by way of preponderance of probability in civil proceeding. The mode of proof required in proceedings before the NCDRC or any other quasi judicial authority or disciplinary proceedings cannot be equated with the mode of proof required in a civil proceeding and a criminal proceeding for the reason the latter two are covered by the Indian Evidence Act whereas the earlier proceedings are not covered by the strict rules of Evidence Act. Thus if a document is admissible in evidence and no objection to the mode of proof is taken thereof at the stage of tendering the same in trial, the party is estopped to challenge the same before the Appellate Court or thereafter, however if the document is per-se inadmissible then even if marked as an exhibit the same cannot be read in evidence.”

18. At this stage, I may also mention that the present application is even otherwise liable to be dismissed. As per the submissions of Ld. counsel for accused applicant himself while relying upon a number of case law, the objections raised during the course of recording the prosecution evidence ought to have been decided at the very time when the said objections were raised. However, as already mentioned, this court did not deem it appropriate to decide the said objections at that stage itself and chose to reserve them for a decision at the time of final judgement. Thus, in the aforesaid circumstances, it is clear that the stage of deciding the said objections at the very time when the same were raised is already over, and thus the only other stage now left to decide the said objections is the stage of final judgement. The stage of recording of statement of accused persons under section 313 Cr. PC is certainly not a stage to decide all such objections. None of the case law relied upon by Ld. counsel for accused applicant company talks of any such intermediate stage of deciding the objections. Thus, as observed by Hon'ble Delhi High Court in the case ***Parkash Oil Corp (supra)*** the court, if it deems appropriate may decide the

objections at the very stage when the same are raised or it may choose to keep them open to be decided at the stage of final judgement. At the cost of repetition, I may state that the stage of recording of statement of accused persons u/s 313 Cr. PC can in no eventuality be a stage to decide all such objections. Thus, from the categorical observations made by Hon'ble Delhi High Court in the case **Gujarat Ambuja Cements Ltd (Supra)** and the case **Prakash Oil Corporation and Another vs. Brij Kishan(supra)** beside the procedure laid down by Hon'ble Supreme Court in the case **Bipin Shantilal Panchal case (Supra)**, I am of the considered opinion that while the objections which were raised by Ld. Counsel Sh. Vijay Aggarwal for applicant/accused company during the course of recording of deposition of various prosecution witnesses were duly recorded, but the same need not be decided at this stage of the matter and will be decided at the time of final judgment in accordance with the arguments addressed by both the sides at that time. Thus, at the time of final arguments both the sides will be entitled to address arguments on the said objections.

19. As regard the submissions of Ld. Counsel Sh. Vijay Aggarwal that such evidence or document should not be put to the accused persons in their statements u/s 313 Cr. PC, it would be suffice to state that the accused persons may answer the said questions/evidence or documents without prejudice to their right to argue on the objections at the time of final arguments. Such a procedure will in no manner prejudice the accused persons in any way. If at the time of final judgment any evidence or document is found to have been not proved as per the provisions of Indian Evidence Act, 1872 then the said piece of evidence or document will certainly be not read in evidence.

The present application thus does not require any further discussion and is accordingly dismissed being devoid of any merits.

20. However before parting away with the present order I would like to draw attention of Ld. Counsel for accused applicant company to the following observations of Hon'ble Delhi High Court as were made in the case **Kiran Chhabra vs Pawan Kumar Jain & Ors.; 2011 SCC OnLine**

Del 803 as regard the manner in which written submissions ought to be filed and the relevant judgements be cited. Though the said judgement was delivered in a civil litigation but the observations of Hon'ble Judge will squarely hold ground in criminal matters also.

*“ Learned counsel for the plaintiff has filed the brief note of submissions. However, the learned counsel has utterly failed to address the number of judgments relating to the issues involved. Some of the relevant judgments in this regard to the notice of this Court are **Harshad Chiman Lal Modi v. DLF Universal, (2005) 7 SCC 791: AIR 2005 SC 4446, Shri Sant Singh v. Shri K.G. Ringshia, CS(OS) No. 2011/1984 decided on 24th May, 2010, Splendor Landbase Limited v. Mirage Infra Limited, CS(OS) No. 582/2009 decided on 8th February, 2010 and Splendor Landbase Limited v. Mirage Infra Limited, FAO(OS) No. 150/2010 decided on 9th April, 2010.***

2. When the Court calls for written arguments to be submitted, it is expected to be something as would assist the Court in its endeavour to do justice and decide the case. Simply filing a list of judgments and attaching photocopies does not assist the Court nor does filing long-winded arguments which are not structured and properly arranged.

3. Written arguments, which Order XVIII Rule 2(3A) of the Code of Civil Procedure also recognizes, ought to be such that would assist the Court. The pattern would vary from case to case but generally Written Arguments should comprise a very brief list of dates, the admitted facts and the disputed facts. The points to be decided should be duly formulated as questions or propositions. In case issues have been framed, separate arguments on each issue are necessary unless two or more issues are such which can be more conveniently addressed together. The factual premises on which a particular argument is given has to be stated on each issue so that the proposition can be appreciated in that light.

4. For each proposition, after stating the factual premises on which a particular argument is given, there should be first the applicable statute which can even be excerpted. Only then, case-law may be cited not just as the legal database on a computer shows up on a query; but each judgment has to be examined and only the more relevant ones for each topic be cited. The Court expects the lawyers to place all case laws, both for and against his case, so long as it is relevant to the proposition in question. Those from the Supreme Court be placed first; those from our High Court be placed next; and those from other High Courts be placed thereafter. In each grouping, the judgments are to be arranged in a reverse chronological order. This is in line with the law relating to precedents. Thereafter, for each decided case which appears to be important, a brief resume of the factual scenario in which the judgment was rendered, is necessary whereafter the relevant portion can be excerpted or described.

5. If there are older judgments which have been noticed in a later judgment, then the older judgment need not be cited. But if the later judgment merely follows and says nothing new, then the older judgment, which contains the reasoning and also lays down the law, should be cited and against the first (later judgment) it ought to be noted that it simply follows or approves a particular earlier judgment.

In that event, the earlier judgment may be excerpted or discussed together with a brief resume of the factual scenario in that case.

6. After the judgments have been cited or portions excerpted, the ratio-decidenti of the judgment needs to be stated, for, it is the ratio-decidenti and not the conclusion, that is binding as a precedent.

7. If there is a contention of the opposite side, it must be answered, and not ignored or left for the court to look for an answer. When all the points or proposition on which the arguments are addressed have been stated, there has to be a summing up so that the Court can get a fair idea of what the arguments are leading to.

8. Throughout these written arguments, page numbers and placitums of the documents or other material on the court record, and the reported judgment, must be given so that the Court can readily reach it in order to verify.

9. Lastly, keeping them brief is more helpful than giving a long mass of something which could even be incoherent. Structuring is most important. If an approach as this followed, the Court gets full assistance, much lesser time of the Court is consumed, and there is less likelihood of the Court falling into error.”

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**ANNOUNCED IN VIRTUAL COURT
via Cisco WebEx Platform
on 07.08.2020**

**(BHARAT PARASHAR)
Special Judge, (PC Act)
(CBI), Rouse Avenue District Courts
New Delhi.**

CC No. 296/2019 (Old CC No. 78/16 & 06/14)
RC No. 219 2012 E 0013
Branch: CBI/EO-I/New Delhi
CBI Vs. M/s. Grace Industries Ltd. & Ors.
U/s. 120-B/409/420 IPC & U/s 13 (1) (c)/13 (1) (d) P.C. Act, 1988

07.08.2020.

Matter taken up today in compliance of Office Order No. Power/Gaz./RADC/2020/E-7784-7871 dated 30.07.2020 and also in continuation to orders No.819-903/DJ/RADC/2020 dated 16.05.2020, No. E1792-1876/DJ/RADC/2020 dated 22.05.2020, No. E-2574-2639/DJ/RADC/2020 dated 29.05.2020, No. E-3943-4029/DJ/RADC/2020 dated 13.06.2020, No. E-4121-4205/DJ/RADC/2020 dated 15.06.2020 and No. Power/Gaz./RADC/2020/E-5577-5661 Dated 29.06.2020 and Power/Gaz./RADC/2020/E-6836-6919 Dated 14.07.2020, of Ld. District & Sessions Judge-Cum-Spl. Judge (PC ACT) (CBI) Rouse Avenue District Court, New Delhi.

The present matter is being taken up today through video conferencing as regular functioning of the Courts at District Courts has been suspended since 23.03.2020 vide office orders of Hon'ble High Court of Delhi bearing Nos. 373/Estt./E1/DHC dated 23.03.2020, No.159/RG/DHC/2020 dated 25.03.2020, No.R-77/RG/DHC/2020 dated 15.04.2020, No. R-159/RG/DHC/2020 dated 02.05.2020, No. R-235/RG/DHC/2020 dated 16.05.2020, R-305 /RG/DHC/2020 dated 21.05.2020, No.1347/DHC/2020 dated 29.05.2020, No.17/DHC/2020 dated 13.06.2020, No.22/DHC/2020 dated 29.06.2020, No. 24/DHC/2020 dated 13.07.2020 and No. 26 /DHC/2020 dated 30.07.2020.

The hearing of the present matter is being taken up via Cisco WebEx Platform in the presence (onscreen) of:

Present: Ld. DLA Sh. Sanjay Kumar, Ld. Senior PP Sh. A.P. Singh, Ld. DLA Sh. V.K. Sharma and Advocate Ms. Tarannum Cheema for CBI along with IO Inspector Jitender Sharma.

None for A-1 M/s Grace Industries Ltd.

Ld. Counsel Sh. K.K. Patra for A-2 Mukesh Gupta and A-3 Smt.

Seema Gupta.

Ld. Counsel Sh. Rahul Tyagi for A-4 H.C. Gupta and A-5 K.S.

Kropha.

A-6 Vishwas Sawakhande.

Ld. Counsel Ms. Prerna Mehta for A-6 Vishwas Sawakhande.

Ld. Counsel Ms. Prerna Mehta for A-6 Vishwas Sawakhande submitted that after going through the reply filed by Ld. DLA Sh. Sanjay Kumar to her application u/s 294 Cr. PC, it was found that certain documents were inadvertently left out to be annexed with her application u/s 294 Cr. PC. She further stated that within next 2-3 days she will place on record said document(s) along with a fresh application, so that prosecution may further carry out admission/denial of documents u/s 294 Cr. PC.

Ld. Counsel Ms. Prerna Mehta further requested that as the genuineness of the earlier documents put to the prosecution by accused u/s 294 Cr. PC has not been disputed, so those documents may be put an exhibit mark.

Ld. DLA Sh. Sanjay Kumar however submitted that he has already strongly opposed the said application u/s 294 Cr. PC of Ld. Counsel Ms. Prerna Mehta.

Heard. Considered.

Be that as it may, once the additional documents now sought to be placed on record by Ld. Counsel Ms. Prerna Mehta for A-6 Vishwas Sawakhande is examined by the prosecution for the purpose of admission/denial of documents u/s 294 Cr. PC, thereafter the court will decide as to what identification mark is/are required to be put upon the documents in the light of the application(s) moved and the reply(ies) submitted on behalf of prosecution.

Ld. Counsels for other accused persons submitted that they are not able to lead their defence evidence in the present circumstances due to COVID-19, since certain document(s) are to be summoned to be shown to the witness(es) and thus they will be able to lead defence evidence only when normal functioning of the courts is resumed.

Heard. Considered.

Accordingly, matter be now put up on 26.08.2020 for consideration of the document(s) to be put by Ld. Counsel Ms. Prerna Mehta for A-6 Vishwas Sawakhande u/s 294 Cr. PC.

The en-block dates i.e. 10.08.2020 and 11.08.2020 for recording of defence evidence as were already fixed in the present matter stands canceled.

A scanned signed copy of this order is being sent to Sh. Mukesh JJA,

Computer Branch, RADC via WhatsApp for uploading it on the official website of Delhi District Courts.

A copy of order is being retained, to be placed in the judicial file as and when normal functioning of the courts is resumed.

The present order has been dictated on phone to Steno Pawan Singhania.

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(Bharat Parashar)
Special Judge, (PC Act)
(CBI), Court No. 608
Rouse Avenue Court
New Delhi
07.08.2020.

**CC No. 252/2019 (Old CC Nos. 94/2016 & 07/15)
RC No. 219 2014 E 0025
Branch: CBI/EO-I/New Delhi
CBI Vs. M/s Adhunik Corporation Ltd. & Ors.
U/s. 120-B r/w Section 420/468/471 IPC**

07.08.2020.

Matter taken up today in compliance of Office Order No. Power/Gaz./RADC/2020/E-7784-7871 dated 30.07.2020 and also in continuation to orders No.819-903/DJ/RADC/2020 dated 16.05.2020, No. E1792-1876/DJ/RADC/2020 dated 22.05.2020, No. E-2574-2639/DJ/RADC/2020 dated 29.05.2020, No. E-3943-4029/DJ/RADC/2020 dated 13.06.2020, No. E-4121-4205/DJ/RADC/2020 dated 15.06.2020 and No. Power/Gaz./RADC/2020/E-5577-5661 Dated 29.06.2020 and Power/Gaz./RADC/2020/E-6836-6919 Dated 14.07.2020, of Ld. District & Sessions Judge-Cum-Spl. Judge (PC ACT) (CBI) Rouse Avenue District Court, New Delhi.

The present matter is being taken up today through video conferencing as regular functioning of the Courts at District Courts has been suspended since 23.03.2020 vide office orders of Hon'ble High Court of Delhi bearing Nos. 373/Estt./E1/DHC dated 23.03.2020, No.159/RG/DHC/2020 dated 25.03.2020, No.R-77/RG/DHC/2020 dated 15.04.2020, No. R-159/RG/DHC/2020 dated 02.05.2020, No. R-235/RG/DHC/2020 dated 16.05.2020, R-305 /RG/DHC/2020 dated 21.05.2020, No.1347/DHC/2020 dated 29.05.2020, No.17/DHC/2020 dated 13.06.2020, No.22/DHC/2020 dated 29.06.2020, No. 24/DHC/2020 dated 13.07.2020 and No. 26 /DHC/2020 dated 30.07.2020.

The hearing of the present matter is being taken up via Cisco WebEx Platform in the presence (onscreen) of:

Present: Ld. Senior PP Sh. A.P. Singh, Ld. DLA Sh. V.K. Sharma, Ld. DLA Sh. Sanjay Kumar and Advocate Ms. Tarannum Cheema for CBI along with Inspector M.R. Atrey in place of IO Inspector J.B. Lakra.

Sh. Vikas Garg, AR on behalf of A-1 M/s Adhunik Corporation Ltd.
A-2 Nirmal Kumar Agarwal.

Ld. Counsels Sh. Vijay Aggarwal, Sh. Vijay Gupta and Sh. Nagesh Kumar for A-1 M/s Adhunik Corporation, A-2 Nirmal Kumar Agarwal and A-3 Mahesh Kumar Agarwal.

APPLICATION DATED 20.07.2020 BY AND ON BEHALF OF THE APPLICANT/ACCUSED NO. 1 M/S ADHUNIK CORPORATION LTD. THROUGH ITS

AUTHORIZED SIGNATORY FOR REQUESTING THE COURT TO DECIDE THE OBJECTION FORTHWITH RAISED BY THE ACCUSED QUA THE DOCUMENTS MARKED AS EXHIBIT BY THE PROSECUTION WITNESS IN EVIDENCE.

Vide my separate order of today's date the aforesaid application moved on behalf of A-1 M/s Adhunik Corporation Ltd., has been dismissed.

Ld. Counsel Sh. Vijay Aggarwal however seeks some time to furnish answers to the questions, which have already been supplied to accused persons in their statement u/s 313 Cr. PC.

Heard. Considered.

Ld. Counsel is requested to provide answers to the questions, through official E-mail of this Court in PDF form along with a statement from the accused persons and duly attested by Ld. Counsel for accused, that all the questions have been understood by them and they are accordingly submitting the answers.

As prayed, matter be now put up on 25.08.2020 for recording of statement of accused persons u/s 313 Cr.PC.

A scanned signed copy of this order is being sent to Sh. Mukesh JJA, Computer Branch, RADC via WhatsApp for uploading it on the official website of Delhi District Courts.

A copy of order is being retained, to be placed in the judicial file as and when normal functioning of the courts is resumed.

The present order has been dictated on phone to Steno Pawan Singhania.

BHARAT
PARASHAR

Digitally signed by BHARAT
PARASHAR
Date: 2020.08.07 11:37:57
+05'30'

**(Bharat Parashar)
Special Judge, (PC Act)
(CBI), Court No. 608
Rouse Avenue Court
New Delhi
07.08.2020.**