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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

WRIT PETITION (L) NO.393 OF 2024

First Overseas Capital Limited ..Petitioner
Versus
Securities Exchange Board of India ..Respondent

Mr. Prakash Shah a/w Shyam Pathak, Rinku Valanju, Kush Khandelwal i/by R. V. Legal, for the Petitioner.

Mr. Mustafa Doctor, Senior Advocate a/w Akash Jain & Daksha Kasekar i/by Mansukhlal Hiralal & Co., for the Respondent.

**CORAM : G. S. KULKARNI &
KISHORE C. SANT, JJ.**

DATE : 19th MARCH, 2024

PC.

1. Heard learned counsel for the parties.
2. The Petitioner was issued two show-cause notices dated 3rd May, 2023 by the Respondent. The Petitioner had replied to these show-cause notices being replies dated 17th May, 2023 and 13th June, 2023. On 20th June, 2023, Petitioner filed Settlement Applications bearing reference Nos.7281 of 2023 and 7282 of 2023 against the show-cause notices in question. In regard to these Settlement Applications, there was correspondence in regard to various compliances which were required to be made by the Petitioners, details of which need not be adverted, as the same are not in dispute.

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3. It may however be observed that the case of Respondent is that there was delay on the part of the Petitioner in making compliances of submission of documents and as per the Settlement Regulations, 2018 and more particularly Regulation 6(1)(b). It is on such backdrop, by the impugned order dated 9th November, 2023, Respondent rejected Petitioner's Settlement Applications in terms of the said Regulations.

4. The Petitioner being aggrieved by the said rejection made a representation to the Respondent dated 17th November, 2023 requesting the Respondent to consider such documents by condoning the delay, which according to the Petitioner was not attributable to the Petitioner and for reasons which were not in Petitioner's control. Such representation also came to be rejected by the communication dated 14th December, 2023. The Respondent however proceeded to adjudicate the show-cause notice issued to the Petitioner. On such backdrop, the present Petition is filed praying following reliefs :-

- "a. Rule be issued;*
- b. This Hon'ble Court may kindly be pleased to invoke its Writ Jurisdiction vested by virtue of article 226 of the Constitution of India and may kindly be pleased to issue a Writ in the nature of Mandamus or any other Writ as this Hon'ble Court may deem fit and proper and kindly be pleased to direct the Respondent to restore the Settlement Applications bearing reference nos.728112023 and 728212023 consider it afresh;*
- c. This Hon'ble Court may kindly be pleased to invoke its Writ*

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Jurisdiction vested by virtue of article 226 of the Constitution of India and may kindly be pleased to issue Writ in the nature of Certiorari or any other Writ as this Hon'ble Court may deem fit and proper and kindly be pleased to quash and set aside correspondence dated November 9, 2023 having reference no.SEBIIHOIEFD2~SDIPIOW/2023/000004515 111, sent by Enforcement Department - 2 Settlement department through the Assistant Manager, SEBI;

d. *Interim and ad - interim reliefs in terms of prayer clause b and c,”*

5. We have heard Mr. Shah, learned counsel for the Petitioner and Mr. Doctor, learned senior advocate for the Respondent.

6. We have also perused the record. We note that certainly there was delay on the part of the Petitioner in not complying with the time lines on submission of the documents, which according to the Petitioner were relevant in regard to the Settlement Applications and as demanded by the Respondent in the course of the proceedings. We also find that the Respondent was required to follow the provisions of the Regulations in question. However, considering the peculiar facts of the case and the reasons which are set out by the Petitioner, in our opinion in not submitting these documents within the prescribed time, the Petitioner would certainly deserve an opportunity of his Settlement Applications being considered by the Respondent and it ought not to become inconsequential on account of a delay of 15 days in submission of the documents. This would certainly cause prejudice to the

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Petitioner. We are thus inclined to set aside the impugned order passed by the Respondent and restore the proceedings of the Settlement Applications with the Respondent to be decided in accordance with law.

7. Mr. Shah, learned counsel for the Petitioner submits that the documents are already part of the record of the Settlement Applications, hence, there would not be any impediment for the Respondent to decide the Settlement Applications as filed by the Petitioner expeditiously.

8. Let the decision on the Settlement Applications be taken as expeditiously as possible within period of eight weeks from the date of copy of the order is made available to the parties.

9. All contentions of the parties on the adjudication of the Settlement Applications are expressly kept open.

10. Before parting, we make it clear that present order shall not be treated as precedent, as same is passed in the peculiar facts and circumstances of the case and considering the reasons which have been set out by the Petitioner for the delay in furnishing the documents.

11. The Petition stands disposed of in the aforesaid terms.
No costs.

[KISHORE C. SANT, J.]

[G. S. KULKARNI, J.]

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