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09.06.2006

MA.633/2006
IN CP.404/2005
OA.3114/2003

Present: Sh.G.D.Bhandari, counsel for applicant.
Sh. Saba Rehman, counsel for respondents.

MA.633/2006 has been filed for reviving CP 404/2005 in OA No.3114/2003 in view of order dated 16.3.2006 wherein it is made clear by Hon'ble High Court that no stay is granted against the Tribunal.

2. It is seen CP.404/2005 was disposed off on 21.12.2005 as stay application filed by Respondents alongwith writ petition was pending before the Hon'ble High Court. It was noted that application is listed on 16.3.2006 therefore liberty was given to the petitioner to revive the writ petition at appropriate stage. Thereafter applicant has filed MA.158/2006 seeking revival of the CP in view of order dated 29.12.2005 issued by respondents but that MA was dismissed by observing that there is no change in circumstances in as such as the application for stay before Hon'ble High Court was still pending.

3. The applicant has filed present MA again for revival of CP because it is submitted by him that on 16.03.2005 Hon'ble High Court made it clear that no stay was granted, he therefore insisted that CP should be revived, whereas respondents have stated in the reply that they had filed an application to modify the orders dated 16.3.2006 and after hearing their counsel on 3.4.2006 order dated 16.3.2006 was modified and fresh notice was issued to the respondents. They were advised to file a fresh C.M. for stay. Accordingly, another C.M. was filed for stay on which notice has been issued on 2.6.2006 after hearing counsel for the respondents herein. These facts have been communicated to the DPO by their counsel Sh.B.S.Rajesh Agrajit vide his letter dated 3.6.2006. The said letter is taken on record.

4. Since fresh notice has been issued on application for stay by Hon'ble High Court, this position as on date is the same which existed on 21.12.2005 when CP was disposed off, therefore, there is no justification to revive the CP at this stage.

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5. We were inclined to list this MA after 23.8.2006 i.e. the next date in Hon'ble High Court but counsel for the applicant insisted that in that case MA be rejected.

6. In view of the above discussion, there being no justification to revive the CP, this MA is rejected.

8/6/06

(Mrs. Meera Chhibber)
Member (J)

V.K.Majetra

(V.K.Majetra)
Vice Chairman (A)

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