

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMPANY PETITION NO. 687 OF 2014

Sterling and Wilson Limited ... Petitioner

Versus

Aspen Infrastructure Limited ... Respondent

Ms. Meenakshi Iyer i/b. Advaya Legal for the Petitioner.
Mr. Yuvraj Narvankar for the Respondent.

CORAM : S.J. KATHAWALLA, J.
DATED : 16TH JANUARY, 2015

P.C.

1. Heard the learned Advocates appearing for the parties and the following order is passed by consent :

i. The Respondent agrees and undertakes to pay an amount of Rs. 1,17,49,823/- to the Petitioner in full and final settlement of the Petitioner's claim against the Respondent in the above Petition, as follows :

- | | |
|-------------------|--|
| 1. Rs. 5,00,000/- | On or before 31 st January, 2015 |
| 2. Rs. 5,00,000/- | On or before 28 th February, 2015 |
| 3. Rs. 5,00,000/- | On or before 31 st March, 2015 |
| 4. Rs. 5,00,000/- | On or before 30 th April, 2015 |
| 5. Rs. 5,00,000/- | On or before 31 st May, 2015 |
| 6. Rs. 5,00,000/- | On or before 30 th June, 2015 |

7. Rs. 5,00,000/- On or before 31st July, 2015
8. Rs. 5,00,000/- On or before 31st August, 2015
9. Rs. 5,00,000/- On or before 30th September, 2015
10. Rs. 24,16,608/- On or before 31st October, 2015
11. Rs. 24,16,608/- On or before 31st November, 2015
12. Rs. 24,16,607/- On or before 31st December, 2015

The undertaking is accepted.

ii. The Respondent Company has agreed that in the event of the Respondent Company committing default in payment of any of the agreed instalments, the Company Petition shall without reference to this Court revive, stand admitted, made returnable within six weeks from the date of default and advertised in two local newspapers i.e. Free Press Journal (in English) and Navshakti (in Marathi) and in the Maharashtra Government Gazette. The Petitioner shall deposit an amount of Rs.10,000/- with the Prothonotary and Senior Master of this Court towards publication charges, within two weeks from the date of default, with intimation to the Company Registrar failing which the Petition shall stand dismissed for non prosecution. In the event of such default the Official Liquidator shall forthwith stand appointed as provisional Liquidator and shall immediately take charge of the records as well as the movable and immovable properties/assets of the Company. Notice under Rule 28 of the Companies

(Court) Rules, 1959 shall also stand waived on behalf of the Company.

iii. The learned Advocate appearing for the Respondent Company on instructions states that the Board of Directors of the Respondent Company have till date not passed any resolution to make a Reference before the BIFR or to file any Application under the Bombay Reliefs Undertaking (Special Provisions) Act, 1958. The statement is accepted. In the event of the Respondent Company is desirous of passing any such resolution, they shall before doing so, inform this Court about the same.

iv. In the event of the Respondent Company desirous of selling any of its fixed assets (over and above the properties viz. Village Alwa, Piparia, Vadodara, Gujrat and Padubidri, Dist. Udupi, Karnataka, which are SEZ notified properties), they shall before doing so, inform this Court as well as the Advocate for the Petitioner about the same.

v. As far as the balance amount claimed by the Petitioner which also includes the claim for interest, the same is referred to the sole arbitration of Dr. Abhinav Chandrachud, Advocate.

vi. The learned Arbitrator shall endeavour to pass his Award within a period of 20 weeks from the date of this order.

vii. The parties and their Advocates shall appear before the learned Arbitrator in his chamber on 19th January, 2015 at 5.30 p.m. and obtain necessary directions.

- viii. The cost of arbitration shall initially be borne by the parties equally.
- ix. All contentions of the parties are kept open qua the dispute referred to the arbitration.
- x. The venue of arbitration shall be at Mumbai.
- xi. The Company Petition is accordingly disposed of.

(S.J. KATHAWALLA, J.)