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

COMPANY PETITION NO.143 OF 2015

Rajesh Pratap Ruparel … Petitioner
versus
M/s. Diamart India Limited … Respondent

Mr. Q.M.Ashfaq with Mr.R.M.Thakkar, for Petitioner.
Mr. R.A.Shaikh, for Respondent.

CORAM: S.J. KATHAWALLA, J.

DATE: 27th APRIL, 2015

P.C.

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

(i) The Company undertakes to deposit an amount of Rs.27 Lakhs within a period of four weeks from the date of this order with the Prothonotary and Senior Master of this Court. The undertaking is accepted. The Prothonotary and Senior Master shall invest the said amount in fixed deposit/s of a Nationalised Bank initially for a period of one year and thereafter renew the same from time to time.

(ii) The learned Advocate for the Petitioner shall deposit the documents i.e. Exhibits B, C and D to the Petition, with the Prothonotary and Senior Master of this Court within a period of four weeks from today.

(iii) Upon both the parties complying with the undertakings given to this Court, all disputes between the parties shall be referred to the sole arbitration of Mr. Simil Purohit, Advocate.

(iv) The learned Arbitrator shall endeavour to pass his award within six months from the date of the first meeting held with him by the parties and their Advocates.

(v) Until the learned Arbitrator passes his Award, the parties shall shall apply for and obtain adjournments in the proceedings filed under Section 138 of the Negotiable Instruments Act, 1881.

(vi) The amount of Rs.27 Lakhs deposited by the Respondent Company, and the documents deposited by the Petitioner shall be subject to the final outcome of the arbitration proceedings.

(vii)All contentions of the parties including the contention pertaining to the law of limitation are kept open.

(viii)In the event of the Respondent Company failing to deposit the amount of Rs.27 Lakhs, as undertaken hereinabove, the above Company Petition shall without reference to this Court 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 toward 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. Notice under Rule 28 of the Companies (Court) Rules, 1959 shall also stand waived on behalf of the Company.

(ix) If the Petitioner fails to deposit the aforesaid documents with the Prothonotary and Senior Master of this Court as directed, the Company Petition shall stand dismissed and the Respondent will be entitled to withdraw the sum of Rs. 27 lacs deposited with the Prothonotary and Senior Master.

(x) The Company Petition is accordingly disposed of.

(S.J.KATHAWALLA, J.)