

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 997 OF 2016**

Smart Timing Steel Limited .. Petitioner
Vs.
National Steel and Agro Industries Ltd. .. Respondent

Mr.Ashwin Shanker a/w. Mr.Balaji Harish Iyer for petitioner.
Ms.Padmaja Dholakia a/w. Ms.Epsita Chaterjee i/b Dholakia Law Associates for respondent.

**CORAM : K.R.SHRIRAM, J.
DATE : 15TH NOVEMBER, 2016**

P.C.

1 The petitioner is a company incorporated under the laws of Hong Kong carrying on business of trading of steel. The respondent is a company registered under the Companies Act, 1956 carrying on business of manufacture of steel. The petitioner and the respondent entered into a Sale Transaction dated 3rd May 2013. The petitioner suffered a loss on account of breach of contract by the respondent and pursuant to the Arbitration Agreement entered between the parties, referred their dispute to arbitration. The reference was to one Mr.Gavin Denton, Sole Arbitrator. The petitioner was represented by their Advocates and the respondent was represented in the arbitral proceedings by their Manager (Legal). The parties submitted their claims and defences. The parties were heard by the Arbitrator and the Arbitrator passed reasoned Award dated 18th August 2014 in favour of the plaintiff. The conclusions are as under :-

11 Holdings

Based on the award above, I hold that :

- 11.1 The tribunal has jurisdiction to determine the Claimant's claims;*
- 11.2 The Claimant has successfully proven its claims;*
- 11.3 The Respondent shall pay to the Claimant the outstanding sum of **US\$276,000**; and*
- 11.4 The Respondent shall bear the Claimant's legal costs and the costs of the arbitration in the sum of **HK\$ 516,600**; and*
- 11.5 The Respondent shall pay the Claimant interest as set out in paragraphs 10.3 and 10.4 above; and*
- 11.6 The Respondent shall pay to the Claimant the above sums forthwith.*

2 This petition is filed for an order and direction that (a) Arbitration Award, dated 18th August 2014 be enforced as a decree of this Court against the respondent; (b) for an order and direction that the respondent discloses and declares its assets; and (c) for an order and direction that the decree be executed against the assets of respondent for the award amount.

3 The respondent has filed an affidavit in reply to this petition of one Homiyar Wankadia, affirmed on 15th November 2016. In the affidavit in reply, there is not even a mention of the grounds required to be proved for refusing enforcement of a Foreign Award, let alone the respondent furnishing any proof to the Court. Under Section 48 read with Section 49 of the Arbitration and Conciliation Act, 1996, enforcement of a Foreign Award may be refused, at the request of the party against whom it is invoked, only if that party furnishes to the Court proof in support of grounds available in

sub-clauses (a) to (e) of Sub-Section (1) and Sub-Section (2) of Section 48. Otherwise, in my view, the Court can permit enforcement of the Foreign Award and the Award can be enforced as a decree of this Court.

4 Since the respondent has not made out any ground whatsoever for refusing enforcement of the Foreign Award, in my view, the petition requires to be allowed.

5 The petition is disposed in terms of prayer clauses (a) and (b), which read as under :

“(a) For an order and direction that the Arbitration Award dated 18th August 2014 be enforced as a decree of this Hon'ble Court against the respondent;

(b) For an order and direction that the respondent discloses and declares its assets.”

6 The respondent to disclose and declare its assets by filing within six weeks from today an affidavit of its Managing Director/Whole-time Director disclosing and declaring its assets.

The petitioner may independently commence execution proceedings.

7 The petition accordingly stands disposed.

(K.R. SHRIRAM, J.)