

IN THE HIGH COURT OF JUDICATURE AT BOMBAY***ORDINARY ORIGINAL CIVIL JURISDICTION*****NOTICE OF MOTION NO. 2059 OF 2017****IN****ARBITRATION PETITION NO. 393 OF 2017****Sphere International****..... Applicant****IN THE MATTER BETWEEN****Sphere International****..... Petitioner****VERSUS****Ecopack India Paper Cup Pvt. Ltd.****..... Respondents**

Mr.Premalal Krishnan, a/w. Mr.Sankalp Anantwar, i/b. Panindia Legal for the Petitioner.

Mr.A.P.Singh, a/w. Mr.Kunal Amin, i/b. M/s.S.K.Srivastav & Co. for the Respondents.

CORAM : R.D.DHANUKA, J.**DATE : 21st DECEMBER, 2017****P.C.**

By this notice of motion, the applicant seeks stay of the impugned award dated 10th April, 2017 rendered by the learned arbitrator under section 31(6) of the Arbitration and Conciliation Act, 1996 based on alleged admission of liabilities made by the petitioner in the statement of defence filed before the learned arbitrator.

2. By a separate order passed by this court on 13th December, 2017, Arbitration Petition No.393 of 1997 impugning the said award has been already admitted.

3. The learned arbitrator had rejected the counter claim made by the applicant on the ground of lack of jurisdiction in respect of which the applicant has already filed a separate suit.

4. A perusal of the award *prima facie* indicates that the arbitral tribunal has rendered an award under section 31(6) based on a solitary paragraph in the written statement and has not considered the entire case pleaded by the applicant in the written statement. The applicant is entitled to explain the alleged admission made in the statement of defence. The arbitral tribunal in my *prima facie* view ought to have rendered the final award after giving an opportunity to both the parties to lead evidence.

5. In these circumstances, I am not inclined to impose any condition upon applicant to deposit any amount as a condition precedent for grant of stay in the impugned award.

6. Notice of motion is accordingly made absolute in terms of prayer clause (a). No order as to costs.

7. It is made clear that hearing of the arbitral proceedings before the arbitral tribunal is not stayed.

(R.D.DHANUKA, J.)