

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

WEDNESDAY, THE 23RD DAY OF AUGUST 2017

THE HON'BLE DR. JUSTICE ANITA SUMANTH

A.No. 4843 of 2017
in
A. No.3007 of 2017
in
O.P.No. 517 of 2016

In the matter of Arbitration &
Conciliation Act, 1996

And

In the matter of disputes arising
out of the Letter of Intent (LoI)
dated 18.01.2007 (document wrongly
dated as 18.01.2006) and the
formal contract documents issued
in furtherance thereof comprising
the purchase Order No.322001086
dated 18.02.2007 for supply of
Conveyors and Related Equipment
for Copper Concentrate Warehouse
('Supply Agreement') Work Order
No. 322001160 dated 13.03.2007 for
necessary Civil works related to
the Concentrate Conveying system
('Civil Agreement') and Work Order
No.322001163 dated 13.03.2007 for
erection and commissioning of the
Copper Concentrate System ('E & C
Agreement'), collectively referred
to as "the Contract" between the
parties

and

In the matter of Arbitration Award
dated 08.03.2016.

Vedanta Limited
Successor-in-interest of
Erstwhile Sterlite Industries (India) Ltd.,
SIPCOT Industrial Complex,
Madurai Bypass Road, T.V.Puram,
P.O.Tuticorin

Tamil Nadu - 628 002. ... Applicant/Petitioner
Vs.

Masyc Projects Pvt. Ltd.,
20, Community Centre, Mayapuri Phase, I,
New Delhi - 110 064. ... Respondent/Respondent

A.No.4843 of 2017:

Masyc Projects Pvt. Ltd.,
20, Community Centre, Mayapuri Phase, I,
New Delhi - 110 064. ... Applicant/Respondent

-Vs.-

Vedanta Limited
Sipcot Industrial Complex,
Madurai Bye-Pass Road,
T.V.Puram, P.O.Tuticorin,
Tamil Nadu 628 002. ... Respondent/Applicant

Application praying that this Hon'ble Court be
pleased to vacate the interim order passed on 13.06.2017
in A.No.3007 of 2017 in O.P.No.517 of 2016 in the present
Arbitration Petition pending final disposal.

This application coming on this day before this
court for hearing the court made the following order:-

The present application has been filed praying
for a vacation of interim order dated 13.6.2017 in
A.No.3007 of 2017 granting a stay of the award in the
light of a Bank Guarantee valid till 4.3.2018.

2. Mr. Tharun Sharma appearing for Masyc
Projects, respondent in Original Petition and applicant in
A.No.4843 of 2017 would reiterate that in terms of the

Award, the respondent was to receive the amount of Rs.86,22,009/- along with interest at 24%. The Bank Guarantee furnished by the petitioner, however, does not taken into account the component of interest ordered.

3.Mr. Rahul Balaji, learned counsel for Vedanta, the petitioner in O.P., and respondent in this application would point out that the learned arbitrator while dealing with the issue of levy of interest, had noted that the claimant, Masyc Projects had claimed interest under the provisions of the 'Interest on belated payments to Small scale and Ancillary Industrial Undertakings Act, 1993'. The claim was denied on the ground that the aforesaid Act stood repealed by the 'Micro, Small and Medium Enterprises Development Act 2006' and as such, no interest could be awarded under the repealed Act. Having said so, the arbitrator went on to award interest at the rate of 24% as claimed on the ground that the transaction between parties was commercial in nature. This is challenged on the ground that there is no clause in the contract that provides for the payment of interest.

4. I find some force in the submission made on behalf of the respondent. Prima facie, the entitlement to interest in the absence of a clause providing for the

same has to be tested at the time of final hearing.

5. Keeping in mind the balance of convenience, the respondent is directed to furnish an additional bank guarantee computing interest at the rate of 8% on the amount awarded to be kept alive till the disposal of the original petition.

6. The Original Petition may be fixed for hearing in the month of January 2018.

Sd/-A.S.M.J

23/08/2017

//Certified to be a true copy//

Dated this the day of 2017

jj 05.10.17

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.