

THE HONOURABLE SRI JUSTICE RAJA ELANGO

WRIT PETITION No.20052 OF 2017

ORDER:

This writ petition is filed questioning the inaction of the 3rd respondent in complying with the order, dated 19.08.2016, in case No.21C/ IFC/ 2015/ 8628, passed by the 4th respondent, as illegal and arbitrary.

Heard and perused the material available on record.

It is the case of the petitioner that it is private limited company incorporated under the provisions of Indian Companies Act and registered as a small and medium enterprises under the provisions of the Micro, Small and Medium Enterprises Development Act, 2006 (for short 'the Act'). The petitioner is an expert in manufacturing high quality Industrial/ domestic gear boxes for the utilization of Heavy engineering companies and machines in different sizes and different models. The petitioner received purchase orders (five in number) from the 3rd respondent, which is a Government of India undertaking, from February 2013, onwards and it supplied the material as required by the 3rd respondent. As per the terms, the 3rd respondent has to pay 100% of the amount through RTGS after dispatch of consignment. The total amount payable by the 3rd respondent for the purchase orders is Rs.67,42,012/- . Out of the said amount, the 3rd respondent paid only Rs.37,64,684/- till March, 2015 and failed to pay the remaining amount though repeated requested and appeals made by the petitioner. The 3rd respondent also admitted the amount to be paid to the petitioner. Since the 3rd respondent failed to pay the amount, the petitioner filed an application before the 4th respondent for adjudication of the matter under the provisions of the Act. Finally, the petitioner preferred

recovery proceedings before the 4th respondent and the 4th respondent after examining the documentary evidence and the submissions of the petitioner, passed the following order on 19.08.2016:

“The Respondent is directed to pay as follows:

A) Rs.29,77,328/- (Rupees twenty Nine Lakh Seventy seven Thousand three Hundred and twenty eight only) towards Principal & Rs.23,22,408/- (Rupees twenty three Lakh twenty two thousand four Hudred and eight only) towards interest totaling to rs.52,99,736/- (rupees fifty two Lakh Ninety Nine thousand Seven Hundred and thirty Six only).

B) Further interest with monthly rests at three times bank rate prevailing as on date of this award as notified by RBI on the amount adjudicated in terms of section-16 of MSME Act 2006 till such date the Respondent makes full & final payment.”

Learned counsel for the petitioner submitted that though the 4th respondent passed the order in the month of August 2016, the 3rd respondent has not complied with the said order and that since there is no separate agency nor procedure to enforce the order of the 4th respondent, the petitioner approached this Court.

Considering the circumstances of the case, and the grievance of the petitioner, this Court is of the view that the writ petition can be disposed of with a direction to the 3rd respondent to pay the amount to the petitioner as awarded by the 4th respondent.

Accordingly, the Writ Petition is disposed of directing the 3rd respondent to disburse the amount as per the order passed by the 4th respondent vide Award in Case No.21C/ IFC/ 2015/ 8628, dated 19.08.2016, to the petitioner as expeditiously as possible.

No order as to costs. As a sequel, miscellaneous petitions pending, if any, shall stand closed.

RAJA ELANGO, J

June 23, 2017
KTL