

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**COMA No. 1 of 2015**

M/s Explopack A Partnership Firm, Duly Registered Under The Indian Partnership Act, 1932 And Having Its Office, Inter Alia, At B-4, M I D C Hingna Road, Nagpur And Represented By Its Constituted Attorney Shri Uday, S/o Shri Madhukar Lehgaonkar, Aged About 40 Years, Profession Service, R/o Plot No. 93, Shivaji Colony, Behind Nasrae Mangal Karyalaya, Hudkeshwar Road, Nagpur - 34

---- Appellant**Versus**

M/s Navbharat Explosive Company Ltd. A Company Duly Incorporated Under The Relevant Provisions Of Companies Act, 1956, Having Its Registered Office At Navbharat Udyog Bhawan, Telibandha, Ring Road No. 1, Raipur Chhattisgarh

---- Respondent**COMA No. 2 of 2015**

M/s Explopack A Partnership Firm, Duly Registered Under The Indian Partnership Act, 1932 And Having Its Office, Inter Alia, At B-4, M I D C Hingna Road, Nagpur And Represented By Its Constituted Attorney Shri Uday, S/o Shri Madhukar Lehgaonkar, Aged About 40 Years, Profession Service, R/o Plot No. 93, Shivaji Colony, Behind Nasrae Mangal Karyalaya, Hudkeshwar Road, Nagpur - 34

---- Appellant**Versus**

M/s Navbharat Fuse Company Ltd. A Company Duly Incorporated Under The Relevant Provisions Of Companies Act, 1956, Having Its Registered Office At Navbharat Udyog Bhawan, Telibandha, Ring Road No. 1, Raipur Chhattisgarh

---- Respondent

For Appellant	: Shri Kishore Bhaduri, Advocate
For Respondent	: Shri Sumesh Bajaj, Advocate

Hon'ble Shri Ajay Kumar Tripathi, Chief Justice
Hon'ble Shri Parth Prateem Sahu, Judge

Judgment on Board**22/10/2018****Per Ajay Kumar Tripathi, Chief Justice**

1. Heard learned counsel for the parties.
2. Looking at the nature of the dispute which led to filing of the Company Petition Nos.4/2012 and 5/2012 for winding up which has the background of non-

settlement of certain dues/claims which the Appellants had raised against the Respondent-Company.

3. When the matter was earlier heard on 16.07.2018, the Court appointed a trained Mediator to explore the possibility of settlement and allowed services of a Chartered Accountant to go through the book of accounts and find a common ground for resolution.
4. Even though the petition has been filed showing that the mediation as such has failed, but the Court still finds success in the said exercise because the Respondent-Company agrees that a sum of Rs.66,33,188/- is payable to the Appellant and in this regard, a Demand Draft No.808112 of the said amount dated 05.10.2018 drawn on State Bank of India, Rajeev Nagar, Raipur has not only been produced before this Court, but handed over to Shri Kishore Bhaduri, learned counsel representing the Appellant.
5. Keeping in mind the said development, these appeals can be disposed off putting to rest issue in relation to winding up of the Company in question.
6. Shri Kishore Bhaduri, learned counsel representing the Appellants submits that there has been long delay in settlement of the claims, the Appellants have suffered and he will be entitled to payment of interest on his rightful claim.
7. To the contrary, it is submitted on behalf of the Respondent-Company that he also has certain legitimate claims against the Appellant and therefore, the demand for payment of interest cannot be accepted unilaterally.
8. Keeping in mind that the major issue with regard to the payable amount between the two parties stands settled, for which, this Court records its appreciation and the gesture shown by the Respondent-Company, the parties can now either negotiate amongst themselves or if they still want to carry on the

litigation for payment of interest or counter claim minus any winding up proceeding in this regard, the Court will not come in the way.

9. Both the appeals stand disposed off in view of the above.

Sd/-

(Ajay Kumar Tripathi)
CHIEF JUSTICE

Sd/-

(Parth Prateem Sahu)
JUDGE

Yogesh