

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :: 17-01-2018

CORAM

THE HONOURABLE MR.JUSTICE M.GOVINDARAJ

C.M.No.1096 OF 2013

M/s.Elgi Electric & Industries Ltd.

... Appellant

-vs-

1. M/s.Jayaraman Industries,
rep.by its Proprietor
K.Balasubramaniam

2. Chairman
MSE Facilitation Council &
Industries,
Commissioner & Director of Industries
and Commerce, Coimbatore.

... Respondents

Appeal against the order, dated 21.11.2012, passed in
Arbitration O.P.No.180 of 2010, on the file of Principal
District Judge, Coimbatore.

For appellant : Mr.S.K.Rakhunathan
For respondent 1 : Mr.V.Sivakumar
R2 : Exparte

JUDGMENT

This appeal is directed against the order passed in an
Arbitration Original Petition by the Principal District Judge,
Coimbatore, dated 21.11.2012.

2. According to the appellant, the lower Court has
failed to consider the petition filed by them in terms of
Section 34 of the Arbitration and Conciliation Act,196; the
issue of jurisdiction of the arbitrator, imposing compounding
interest; and the application of provisions of Micro, Small,
Medium Enterprises Development Act,2006, are erroneous.

3. Heard both sides.

4. The material argument before the Court below was that (i) the arbitrator has no jurisdiction to try the issue; (ii) the award is a non-speaking order; (iii) the interest awarded is not in accordance with law; and (iv) principles of natural justice have not been followed.

5. The lower Court has categorically found that as per Section 18 (4) of the Act, the Micro and Small Enterprises Facilitation Council or the Centre providing alternate dispute resolution services shall have jurisdiction to act as an arbitrator or conciliator in a dispute between the supplier located within the jurisdiction and a buyer located anywhere in India and, as such, the arbitrator has jurisdiction. The Court below has further held that in respect of appointment of arbitrator, the appellant has not raised any objection till the award was passed. Section 15 of the Act provides for award of interest. Therefore, the points raised by the appellant have been decided against him by the Court below. The scope of Section 34 is very limited. The Court below, following a decision of this Court in Brick Steel Enterprises v. The Superintending Engineer, PWD, Salem, 2006 (5) CTC 519, has held that in a petition under Section 34 of the Act, the Court cannot reappraise or reexamine the evidence with regard to the arbitration proceedings and, therefore, the award passed by the arbitrator does not suffer any infirmity. The appellant was also unable to point out any specific material irregularity in the award passed by the arbitrator. The Court below has rightly arrived at the finding, following the judgment of this Court and also the relevant provisions of the Act. Therefore, this Court does not find any merit in this case to interfere with the order passed by the Court below.

6. Civil Miscellaneous Appeal is, accordingly, dismissed. No costs.

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

dixit

To

Principal District Judge,
Coimbatore.

+1cc to Mr.S.K.Rakhunathan, Advocate, S.R.No.3466

+1cc to Mr.V.Sivakumar, Advocate, S.R.No.3547

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C.M.A.No.1096 OF 2013

RJ(CO)
CS/06/04/18



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