

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

FRIDAY, THE 20TH DAY OF JULY 2018

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

A. No.956 of 2018

in

O.P.D.No.820 of 2017

In the matter of Arbitration and
Conciliation Act 1996

And

In the matter of Tamil Nadu
Cements Corporation Ltd., and
M/s. Union Engineers, Coimbatore.

The Tamil Nadu Cements Corporation Limited

L.L.A.Building, II Floor,

No.735, Anna Salai, Chennai 600 002

Rep.by Manager (Materials) in charge.

: Applicant/Petitioner

-Versus-

1. M/s. Unicon Engineers
513-A/6 Bharathi Road,
Chinnavedampatty,
Coimbatore 641 049,
Rep.by its Managing Partner,
P.Ponram.

2. The Micro and Small Enterprises
Facilitation Council, Coimbatore Region,
Rep.by the General Manager
District Industries Centre/zonal office,
No.2, Raja Street,
Coimbatore 641 049.

: Respondents/Respondents

Application praying that this Hon'ble Court be pleased
to dispense with the pre-deposit (waive the deposit of 75%
of the award amount) in Case No. M & SEFC/CBER/11/2016
dated 04.06.2016 pending disposal of the above O.P.

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

The instant application has been filed seeking waiver of the pre-deposit of 75% of the Award amount as stipulated under Section 19 of Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as "MSMED Act").

2.Heard. Mr.Vijay Narayan, learned Advocate General for the applicant/petitioner.

3.The applicant/petitioner has challenged the Arbitral Award dated 04.06.2016, passed against the applicant/petitioner under Section 18 of MSMED Act.

4.Section 19 of MSMED Act stipulates that 75% of the awarded amount will have to be deposited with the Court if an aggrieved party intends to challenge an Arbitral Award passed under Section 18 of MSMED Act.

Section 19 of MSMED Act reads as follows:

19.Application for setting aside decree, award or order.-No Application for setting aside any decree, award or other order made either by the Council itself or by any institution or centre providing alternate dispute resolution services to which a reference is made by the Council, shall be entertained by any Court unless the appellant (not being a supplier) has

deposited with it seventy-five per cent. of the amount in terms of the decree, award or, as the case may be, the other order in the manner directed by such Court:

Provided that pending disposal of the application to set aside the decree, award or order, the Court shall order that such percentage of the amount deposited shall be paid to the supplier, as it considers reasonable under the circumstances of the case, subject to such conditions as it deems necessary to impose.

This clause seeks to debar any Court or other authority from entertaining an appeal against any decree, award or any other order unless the appellant (not being a supplier) has deposited with it seventy-five per cent. of the amount in terms of the decree, award or other order (Notes on Clauses).

5.The applicant/petitioner has filed instant application seeking waiver of the pre-deposit amount as stipulated under Section 19 of MSMED Act. A Division Bench of this Court by its order dated 25.10.2017, in O.S.A.No.96 of 2017 has held that a waiver application seeking waiver of pre-deposited amount is not maintainable. The Division Bench held that the application under Section 34 of the Arbitration and Conciliation Act, pursuant to an award passed under MSMED Act can be challenged only after the statutory pre-deposit is made in accordance with Section 19 of MSMED Act.

6. In view of the Division Bench order, the instant application is not maintainable. The learned Advocate General submitted that in view of the order referred to supra, this Court may grant eight weeks time for the applicant/petitioner to make the pre-deposit amount as stipulated under Section 19 of MSMED Act.

7. Being a Public Sector Enterprise, this Court finds reasonableness in the request made by the learned Advocate General.

8. Accordingly, Application No.956 of 2018 is disposed of with a direction to the petitioner to pay the pre-deposit amount as stipulated under Section 19 of MSMED Act within a period of eight weeks from today.

9. On such deposit being made, Registry is directed to number the Original Petition if it is otherwise in order.

Sd./-A.Q.J
20.07.2018

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//Certified to be true copy//

Dated at Madras this the day of 2018
JJ 04/09/2018

COURT OFFICER(O.S.)

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