

\$~CP-11

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ CO.PET. 684/2015, CA Nos.2665/2015 and 954/2018

ECOTEX PTE LIMITED

..... Petitioner

Through Ms.Priya Kumar, Mr.Adish
Srivastava and Mr.Tejas Chhabra,
Advs.

versus

SHAHI EXPORTS PRIVATE LIMITED

..... Respondent

Through Ms.Neelam Tripathi and Ms.Gunjan
Singh, Advs.

CORAM:

HON'BLE MR. JUSTICE JAYANT NATH

ORDER

% **20.12.2018**

1. This petition has been filed under sections 433(e), 434 and 439 of the Companies Act, 1956 (*hereinafter referred to as 'the Act'*) seeking winding up of the respondent company.
2. The petitioner had issued a statutory legal notice to the respondent on 06.05.2015. As per the said notice, the petitioner had claimed a sum of USD 1,85,000 + USD 14,800 alongwith interest.
3. The learned counsel appearing for the respondent has pointed out that the petitioner had also initiated arbitration proceedings for various claims against the respondent. The learned arbitrator has given his award dated on 06.05.2018. This award has been challenged before the Karnataka High Court under section 34 of the Arbitration Act. The Karnataka High Court on 31.10.2018 had stayed the enforcement of the impugned award dated 06.05.2018 subject to the condition that the respondent herein shall furnish a

bank guarantee for the impugned award, including the interest on it.

4. In compliance of the said order of the Karnataka High Court, the respondent has alongwith an affidavit filed a bank guarantee for a sum of Rs.3,82,43,348/-.

5. Keeping in view the above development, in my opinion, the claim of the petitioner in this petition is adequately secured. Once the necessary objections to the award are adjudicated upon, necessary consequences would follow. In case the petitioner would succeed he would become entitled to encash the Bank Guarantee.

6. Accordingly, I do not see any reason to permit the petitioner to pursue the present winding up petition any more as the dispute between the parties are already a subject matter of the proceedings before the Karnataka High Court where the petitioner's claim is secured.

7. The petition stands disposed of. However, liberty is granted to the petitioner to seek revival of the present winding up petition as per law, in the eventuality, if some claims of the petitioner remain unpaid by the respondent on culmination of the proceedings before the Karnataka High Court.

JAYANT NATH, J.

DECEMBER 20, 2018/v