

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

CIVIL APPLICATION NO.2203 OF 2015
 IN
 WRIT PETITION NO.1211 OF 2014

Softgrip Power Solutions Pvt.Ltd. ... Applicant

In the matter between:

Kerla State Electronics Development
 Corporation Limited & ors. ...Petitioners

v/s.
 Softgrip Power Solutions Pvt.Ltd. ...Respondent

...
 Mr.Suresh Dhole for the Applicant.
 Mr.Makarand Bakore I/b JMB Partners for the Petitioners.
 Ms.P.N.Diwan, AGP for the State.

...
CORAM : A.A. SAYED &
PRAKASH D. NAIK, JJ.

DATED : 03 JUNE 2019

P.C.:

By this Civil Application the Applicant has sought the following reliefs:

(i) require the Petitioner to deposit an amount of Rs.2,52,33,512/- in terms of Section 19 of MSMED Act 2006; or

(ii) vacate the stay granted as per order dated 10-04-2015.

2. We have perused the order dated 10 April 2015 as also the subsequent order dated 15 October 2015. Paras 3 and 4 of the subsequent order dated 15 October 2015 reads as follows:

“3. In view of the decision of this Court in the case of Steel Authority of India Limited, the Facilitation Council under the Micro Small Medium Enterprises Development Act, 2006 could not have proceeded under sub section 3 of Section 18 and could not have passed the impugned order. Apart from this, paragraphs 22 and 23 of the petition disclose that the sole arbitrator appointed on the basis of arbitration clause in the purchase order had already entered upon the reference and the preliminary meeting for issuance of direction was fixed on 23 June, 2012.

4. Apart from the submissions made by the based on the applicability of section 22 of Sick Industries Companies (Special Provisions) Act, 1985 and orders of Board of Industrial and Financial Reconstruction, the issue raised based on the binding decision of Division Bench in the case of Steel Authority of India Limited goes to the root of the matter. Prima facie, we find that the impugned order of the Facilitation Council is without jurisdiction.

In terms of the ad interim order passed on 10 April, 2015, the petitioner has deposited the sum of Rs. 30 lacs. Considering the decision of the Division Bench in the case of Steel Authority of India Limited, prima facie we are of the view that the Facilitation Council could not have proceeded with the matter. Therefore, a case is made out for confirming the ad interim relief granted on 10 April, 2015. Accordingly, we direct that the ad interim relief granted on 10 April, 2015 shall continue to operate as interim relief.”

3. The order dated 10 April 2015 is ad-interim order. The present Civil Application is filed on 14 July 2015. The subsequent order dated 15

October 2015 confirming the ad-interim order dated 10 April 2015 and which is to operate as interim order has not been challenged by the Applicant and has attained finality.

4. In the circumstances we are not inclined to grant any relief to the Applicant in this Civil Application.

5. The Civil Application to stand dismissed.

(PRAKASH D. NAIK,J.)

(A.A.SAYED, J.)