

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Amk

APPEAL NO. 358 OF 2016
IN
ARBITRATION PETITION NO. 1386 OF 2010

M/s. Amrutanjan Ltd.

.. Appellant

Vs.

M/s. Shamrock International Ltd.

.. Respondent

Mr. Parvez Rustom Khan for the Appellant.

Mr. Darshit Jain a/w. Dileep Safale i/b Divya Jain for the Respondent.

CORAM : PRADEEP NANDRAJOG, C.J. &

SMT. BHARATI DANGRE, J.

DATE : 8th NOVEMBER, 2019.

P.C. :

1. As recorded in the order dated 02.05.2019 the Appellant restricted the challenge to the impugned order concerning sum of ₹ 1,29,44,364/- awarded by the learned Arbitrator under Claim E.
2. A perusal of the Award shows that claim towards loss of profit for goods not supplied has been dealt with by the learned Arbitrator with reference to Exhibit K.
3. Exhibit K is a tabulation of the data concerning 13 shipping bills, with the dates thereof mentioned under column 2, the quantity of the goods shipped under column 4, FOB value under column 5 and DDPB benefit under the next column. Proportionate amounts would have accrued to the claimant if remaining quantity was also supplied.

Accordingly, the learned Arbitrator has quantified the loss of profit at ₹ 1,29,44,364/-

3. Our attention has been drawn by learned Counsel for the Appellant to document produced before the Arbitrator concerning benefit under DEPB which records FOB value at ₹ 1,25,46,565.39 and quantifies the DEPB benefit at ₹ 3,56,688.00 and with reference to a relatable documents it is pleaded that pertaining to shipping bill Nos. 1901843, 1866564, 1920235, 1830754 and 1756499, the DEPB benefit of ₹ 3,56,688/- was accorded. It is highlighted that the first two shipping bills are at serial Nos.8 & 9 of the tabulation, Exhibit K.

4. The inference sought to be drawn that there has been a wrong statement of the amount mentioned in Exhibit K and thus this is an error apparent on the face of the record.

5. Learned Counsel for the Respondent draws our attention to the documents referred to by learned Counsel for the Appellant to highlight that the reference to five shipping bills is in the context of a supplemental bill and this argument of the Respondent when juxtaposed to the argument by the learned Counsel for the Appellant leads us into a re-appreciation of the material before the Arbitrator which we refuse to do for the reason, concededly this point was neither raised before the learned Arbitrator nor before the learned Single Judge i.e. that the figures tabulated in Exhibit K do not correctly picturise the relatable document.

6. The Appeal is accordingly dismissed.

7. No costs.

8. Since the Appeal has been dismissed, the amount deposited by the

Appellant pursuant to the order passed in the instant Appeal together with accrued interest thereon shall be paid over to the Respondent.

[SMT. BHARATI DANGRE, J.]

[CHIEF JUSTICE]

Arjun
M.
Kadam

Digitally signed
by Arjun M.
Kadam
Date:
2019.11.13
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