

IN THE HIGH COURT OF JUDICATURE AT MADRAS**DATED 05.07.2019****CORAM****THE HONOURABLE MR.JUSTICE N.SATHISH KUMAR****O.P. No.703 of 2008**

M/s.Gee Cab Industries Limited
No.29, R.Anand Parbhat Industrial Area,
Gali No.4, New Rohtak Road, New Delhi – 110005
Rep. By its Manger, A.K.Mishra .. Petitioner

-vs-

1. The Union of India,
Represented by the Controller of Stores,
New Joint Office, Southern Railway,
Ayanavaram,
Chennai – 600 023.
2. Mr.Manoj Mahajan (Sole Arbitrator)
Presently the Deputy Chief Electrical Engineer
(Traction Rolling Stock),
Southern Railway Head Quarters,
Park Town,
Chennai – 600 003.

.. Respondents

Prayer: Petition filed under Section 34 of the Arbitration & Conciliation Act, 1996 to set aside the award dated 21.07.2008 made in the arbitration of the disputes arising out of the Contract bearing Purchase order No.82/04/0042/1/01597 dated 05.01.2005 passed by the Sole Arbitrator and pass a fresh award allowing all the claims of the petitioner.

For Petitioner : Mr.Amalraj S. Penikilapatti

For Respondents : Mr.M.T.Arunan
Senior Counsel for R1.

ORDER

This petition has been filed to set aside the award dated 21.07.2008 made in the arbitration of the disputes arising out of the Contract bearing Purchase order No.82/04/0042/1/01597 dated 05.01.2005 passed by the Sole Arbitrator and pass a fresh award allowing all the claims of the petitioner.

2. The learned counsel appearing on behalf of the petitioner brought to the notice of this Court about the order passed by the Division Bench, wherein, this Court in similar issue in O.S.A.Nos.134 and 135 of 2017 has granted liberty to the appellant to withdraw the petition and canvas the interest before the appropriate authority under Interest on delayed payments to Small Scale and Ancillary Industries Undertakings Act, 1993 and passed the following order:

"7. (a) Both these Intra Court appeals viz., O.S.A.Nos.134 & 135 of 2017, stand withdrawn with leave set out in the succeeding paragraph infra. To be noted, learned counsel for appellant has made necessary endorsement in Court records in this regard.

(b) The appellant in these Intra Court appeals will have leave and liberty to approach the appropriate authority under Interest on Delayed Payments to Small Scale and Ancillary Industries Undertakings Act, 1993 (1993 SSAI Act) in accordance with the statute, before the authority specified under the Act.

(c) It is brought to our notice that the authority specified is under Micro, Small & Medium Enterprises Development Act, 2006. However, we do not delve into that aspect of the matter in the light of the nature of this order.

(d) As and when the appellant in these Intra Court appeals approaches the authority under 1993 SSAI Act, the same shall be dealt with in accordance with the statute and in accordance with the time frame set out thereunder.

(e) Though obvious, we make it clear that all the questions raised before the Arbitral Tribunal, learned Single Judge and now before us are left open.

(f) For absolute clarity, we make it clear that as and when petitions are brought up by the appellant in these Intra Court appeals before the authority under 1993 SSAI Act, the same shall be decided by the said authority untrammelled and uninfluenced by anything that has been said in the Arbitral Award of the Tribunal, order of the learned Single Judge dated 03.08.2016 in

N.SATHISH KUMAR,J.

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O.P.Nos.3 & 422 of 2005 and observations on merits of the matter if any, the exception being the leave and liberty that we have granted.”

3. In view of the above, at the request of the learned counsel for the petitioner, this petition is disposed of with liberty to approach the appropriate forum under Interest on Delayed Payments to Small Scale and Ancillary Industries Undertakings Act, 1993 within a period of two (2) months from today (05.07.2019). No costs.

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Index:Yes/No
Internet:Yes/No
Speaking order: Non-speaking order

05.07.2019
(2/2)

Note: Issue order copy on 12.07.2019.

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