

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

THURSDAY, THE 22nd DAY OF AUGUST 2019

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

A. No.4179 of 2019

in

O.P.SR.No.27219 of 2019

In the matter of Section 34 of
the Arbitration and
Conciliation Act, 1996.

And

In the matter of Arbitration
Award dated 10.08.2018 passed
by the Micro Small Enterprises
Facilitation Council.

M/s.NCBA Exports Private Limited
No.212, ShahpurJat,
New Delhi - 1100049,
Represented by its Director,
Mr.Amitabha Sen

..Applicant/Petitioner

Vs.

M/s.Smile Publishing (India) Private Limited,
SP-118, Deccan Complex,
Ambattur Industrial Estate,
Ambattur,
Chennai- 600058
Represented by its Director,
Mr.Rajesh

..Respondent/Respondent

Application praying that this Hon'ble Court be
pleased to order waiver of the deposit amount of
Rs.18,88,340/- prescribed under Section 19 of the MSMED
Act, 1996.

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

This Application has been filed to order waiver of the deposit amount of Rs.18,88,340/- prescribed under Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006.

2. The learned counsel appearing for the applicant mainly contended that the applicant is not a buyer of the goods, he has acted only as a Commission Agent and hence, prayed for allowing this Application.

3. Whereas, the learned counsel appearing for the respondent submitted that the books had been supplied to the applicant, invoices are also raised against him and all the documents clearly indicate that the supply has been made only against the applicant.

4. In view of the above, this Court cannot go into the issue at present whether there is a buyer-seller relationship between the parties. The learned Arbitrator after conciliation has passed an award.

5. The learned counsel for the respondent has relied upon the judgment of the Hon'ble Supreme Court in **GOODYEAR INDIA LIMITED vs. NORTON INTECH RUBBERS PRIVATE**

LIMITED AND ANOTHER reported in (2012) 6 SCC 345, in which,
<https://hcservices.ecourts.gov.in/hcservices/>

it has held that the Court has no discretion to either waive or reduce the amount of 75% of award as a predeposit for filing of application/appeal. However, the Hon'ble Apex Court has held that the Court has discretion to allow predeposit to be made in installments.

6. In view of the settled position of law, the waiver of the deposit amount cannot be granted and the applicant is granted 3 months time to deposit the entire amount, from the date of receipt of a copy of this order. On such deposit, the amount shall be deposited in a fixed deposit in any of the Nationalised Bank. Once such amount is made, the Application shall be treated in order and thereafter, shall be proceeded.

7. With these observations, this Application is closed.

Sd./-N.S.K.J
22/08/2019

//Certified to be true copy//
Dated at Madras this the day of 2019.

COURT OFFICER(O.S.)

jj 28/11/2019

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