

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2019

CORAM

THE HON'BLE DR.JUSTICE VINEET KOTHARI
AND
THE HON'BLE MR.JUSTICE C.V.KARTHIKEYAN

O.S.A.No.126 of 2018
and C.M.P.Nos.7979 and 7980 of 2018

The Tamil Nadu Cements Corporation Ltd.,
LLA Building, II Floor, No.735, Anna Salai
Chennai - 600 002.
Rep. by its Manager (Materials) in charge ... Appellant

-Vs-

1. M/s.Unicon Engineers
513-A/6, Bharathi Road
Chinnavedampatty
Coimbatore - 641 049
Rep.by Managing Partner P.Ponram
2. The Micro and Small Enterprises
Facilitation Council, Coimbatore Region
Rep.by the General Manager, District
Industrial Centre / Zonal Office
No.2, Raja Street, Coimbatore-641 001. ... Respondents

For Appellants : Mr.A.Sivaji

For Respondents : Mr.B.Manoharan - for R1

Prayer : Appeal under Order XXXVI Rule 9 of the Original Side Rules, read with Clause 15 of the Letters Patent, against the order passed by this Honourable Court in A.No.144 of 2018 in O.P.Diary No.3400 of 2017 dated 06.03.2018.

Prayer in APPL.No.144 of 2018: Application filed Under Order XIV Rule 8 of O.S.Rules praying to dispense with the pre deposit (waive the deposit of 75% of the award amount) in Case NO.M & SEFC CBER/30/2016 dated 04/06/2016 pending disposal of the above O.P.

Prayer in OPD No.3400 of 2017: Petition filed Under Section 34 of the Arbitration and Conciliation Act, 1996 praying

(a) to set aside the Order/award dated 04/06/2016 and the order dated 25/10/2016 in Case No.M&SEFC.CBER 30 of 2016 passed by the 2nd Respondent/Council.

(b) direct the 1st Respondent to pay a sum of Rs.12,89,225/- paid towards 25% advance amount of Rs.7,17,500/- and interest Rs.5,71,725/- @ 14.25 % p.a. from 01.06.2011 to 31.12.2016 and thereafter till the date of realization with 14.25% per annum;

(c) award costs to the Petitioner and pass such further orders and render justice.

J U D G M E N T

(Judgment of the Court was delivered by DR.VINEET KOTHARI, J.)

The Appellant - Tamil Nadu Cements Corporation Limited, a State Government Undertaking has filed the present appeal aggrieved by the order passed by the learned Single Judge dated 06.03.2018 in A.No.144 of 2018 in O.P.Diary No.3400 of 2017 under Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006 which requires as a condition to maintain the appeal before the competent authority, a pre-deposit of 75% of the decretal amount by the appellant.

2. The learned Single Judge had granted 8 weeks time to the appellant Corporation to make such pre-deposit in terms of Section 19 of the Act by the order impugned before us on 20th July 2018. Approximately, one year thereafter, had passed, but, still the learned counsel for the Appellant submits that they want some more time to make the above pre-deposit of 75% of the decretal sum by the appellant-Corporation before the competent authority.

3. The learned counsel for the appellant, Mr.A.Sivaji submitted that some amount has already stands deposited during the Execution Proceedings, with the authority concerned and that should be allowed to be deducted from the aforesaid sum of 75% of the decretal sum.

4. The learned counsel for the respondent, however, disputed this position, and submitted that 75% of the decretal sum deserves to be deposited by the Corporation.

5. Having heard the learned counsel for the parties, we dispose of the present Appeal by granting 3 weeks period to the Appellant-Corporation, from today to make the pre-deposit of the aforesaid 75% of the decretal sum for maintaining the Appeal before the competent authority in terms of Section 19

of the Micro, Small and Medium Enterprises Development Act, 2006. It is made clear that the amount already paid by the Appellant-Corporation shall be deducted from the said sum of 75% of the decretal amount to be paid by the Appellant-Corporation as a condition for maintaining the Appeal in terms of Section 19 of the said Act. It is further made clear that no further extension of time shall be granted to the Appellant-Corporation, in any circumstances, beyond the aforesaid period of three weeks from today.

6. With this observation, the appeal is disposed of. No costs. Consequently, connected miscellaneous petitions are closed.

Sd/-
Assistant Registrar

//True Copy//

KST
To Sub Assistant Registrar

1.The Manager (Materials),
The Tamil Nadu Cements Corporation Ltd.,
LLA Building, II Floor, No.735, Anna Salai
Chennai - 600 002.

2.The Managing Partner,
M/s.Unicon Engineers
513-A/6, Bharathi Road
Chinnavedampatty, Coimbatore - 641 049

3.The General Manager,
The Micro and Small Enterprises
Facilitation Council, Coimbatore Region
District Industrial Centre / Zonal Office
No.2, Raja Street, Coimbatore-641 001.

copy to:1)The Sub Assistant Registrar,
Original Side, High Court, Madras - 104
2)The Section Officer,
Judicial Department, High Court, Madras - 104.

+1 cc to Mr.A.Sivaji, Advocate, S.R.No.61753

+1 cc to Mr.B.Manoharan, Advocate, S.R.No.60937

O.S.A.No.126 of 2019

PM(CO)
SSM(01/08/2019)