

HIGH COURT OF CHHATTISGARH, BILASPUR

WPC No. 1258 of 2021

- M/s Vishal Logistics Through Prop. Vishal Agrawal, Suman Complex, Beside Suman Petroleum, Main Road, Lakhanpur, District Surguja Chhattisgarh. 497116

---- Petitioner

Versus

1. State Bank Of India Through General Manager, C - 5, G - Block, Bandra Kurla Complex (B.K.C.), Mumbai (Maharashtra) 400051.,
2. State Bank Of India Branch Lakhanpur, Through Branch Manager, Lakhanpur, Ambikapur, District Surguja Chhattisgarh.
3. M/s Emami Cement Limited Through Managing Director 15th Floor, Acropolis, 18581, Rajdanga Main Road, Kasba, Kolkata 700107.

---- Respondents

For Petitioner	:	Mr. H.V. Sharma, Advocate
For Respondents- SBI	:	Mr. P.R. Patankar, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

03.03.2021

Heard

1. The present writ petition has been filed by the petitioner on the ground that the Bank guarantee, which was extended by the State Bank of India to Emami Cement Factory on behalf of M/s Vishal Logistics, has been invoked beyond the period of existence. He would submit that the validity of the Bank guarantee was uptill 18.11.2020 and the Bank guarantee having been invoked beyond that period it would be barred by limitation as such it is arbitrary. It is stated consequently that the Bank could not have release the

amount of Bank guarantee.

2. Per contra, learned counsel for the respondents-Bank would submit that the validity of the Bank guarantee was to remain in force from 17.12.2020 unless the demand of claim under the guarantee is made before 17.12.2021. He further submits that the Bank guarantee was invoked before 18.02.2021 and was paid on 22.02.2021, therefore the Bank guarantee has rightly been paid and discharged and the bank otherwise would have been subjected to damages.
3. After perusal of the documents it shows that the disputed question of facts are required to be decided in the case by evidence. If both the parties claim that the bank guarantee was wrongly been paid then in such case the existence of the bank guarantee and the period are required to be proved during the evidence. The finding of fact cannot be gone into by a roving enquiry by this Court. The petitioner can therefore very well avail the remedy for remittance back of the amount before the competent civil Court under the common law and prove facts. Thus being disputed question of facts, I am not inclined to entertain this petition under Article 226 of the Constitution of India.
4. Accordingly, the writ petition stands dismissed.

Sd/-
(Goutam Bhaduri)
Judge