

$\frac{1}{4}$

No.WB16B0003097/S/00003 claiming sum of Rs.8,50,000/- from the buyer in respect of the Invoice No.22 dated 01.02.2017.

4 This court, by order dated 23.01.2019 in Appellate Side Writ Petition No.12052/2018 – Godrej and Boyce Mfg. Co. Ltd. Vs. West bengal Micro Small Enterprises Facilitation Council, Govt. of West Bengal and Anr. directed the Petitioners to deposit the amount as claimed by Respondent No.2 with the Registry of this Court within a period of two weeks, subject to such deposit, stay to coercive recovery.

5 Thereafter, Petitioners by letter dated 1st February 2019 addressed to the Registrar, High Court, Appellate Side, Bombay deposited a sum of Rs.21,61,323/- by demand draft dated 1st February 2019 issued by Central Bank of India. Learned counsel for the Petitioners submits that during the pendency of the present Petition, matter stands settled between the Petitioners and Respondent No.2 in Arbitration Petition No.329 of 2019 in the High Court of Calcutta by filing consent terms dated 30th December 2019. Clauses 6 and 12 of the said consent terms read thus:

“1...

2...

3...

4...

5...

6 In the interest of settlement and with the purpose of putting an end to all the pending litigations between the parties, the Petitioners has agreed to pay the Respondent an amount of Rs.17,50,000/- (Rupees Seventeen Lakh Fifty Thousand Only) as full and final settlement of all the disputes and/or issues between the parties, after the Respondent signing these Consent Terms. The Petitioners will pay the aforesaid sum of Rs.17,50,000/- to the Respondent by way of demand draft dated December 30,2019, bearing No.213904 and drawn on the Central Bank of India and the same will be handed over the Respondent after the Respondent has signed and executed

these Consent Terms.

7...

8...

9...

10...

11...

12 The parties agree and confirm that upon the signing and execution of these Consent Terms, the Petitioners shall withdraw the Arbitration Petition No.329 of 2019 filed by the Petitioners against the Respondent before the Hon'ble Calcutta High Court challenging the Award dated March 07, 2019 passed in Case No.139 of 2017. The Petitioners shall also withdraw the fresh Writ Petition No.10551 of 2019 which is pending before the Hon'ble Bombay High Court."

6 Learned counsel for the Petitioners submits that the consent terms were accepted by the Calcutta High Court by order dated 14th January 2020.

7 The Advocate for the Petitioners placed on record additional compilation of documents along with notice issued by Respondent No.2, consent terms dated 30th December 2019 and the order passed by Calcutta High Court dated 14th January 2020.

8 Learned counsel for the Petitioners submits that in view of these subsequent developments, Petitioners may be permitted to delete the name of Respondent No.1 from the present proceedings and allow the Petitioners to withdraw the Petition unconditionally because the matter is already settled with Respondent no.2. He further submits that the amount deposited by the Petitioners as per earlier order dated 23rd January 2019 in Writ Petition No.12052 of 2018 be permitted to be withdrawn unconditionally along with interest accrued thereon if any, to Petitioners. To that effect, Advocate for the Petitioners has given in writing. Same is taken on record and marked 'X' for identification.

9 Hence, we pass the following order:

- (a) Petitioners are permitted to delete the name of Respondent No.1. Amendment to be carried out during the course of the day.
- (b) Petitioners are permitted to withdraw the amount deposited by them in Registry of this Court as per earlier order dated 23rd January 2019 passed by this Court (Coram: B.P.Dharmadhikari & Revati Mohite Dere,JJ.) unconditionally along with interest accrued thereon, if any, without insisting an any surety or guarantee.
- (c) Petition stands disposed of as withdrawn.
- (d) No order as to costs.

[RIYAZ I. CHAGLA, J.]

[K.K.TATED, J.]