



WEB COPY

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.10.2021

CORAM

THE HONOURABLE MR.JUSTICE ABDUL QUDDHOSE

C.M.A.No.1646 of 2021

M/s.Bajaj Knitters,
Represented by
Devarajan,
No.69, Lakshmi Nagar,
50 Feet Road,
Tiruppur.

...Appellant

Vs

1. M/s.Indel Narrow Fabrics Private Limited,
Represented by
S.Balasubramanian, Director,
740, Trichy Road,
Ramanathapuram,
Coimbatore - 45.
2. Regional Industrial Facilitation Council,
Represented by its Chairman,
Department of Industries and Commerce,
Codissia,
G.D.Naidu Towers,
T.B.Road,
Hozur Road,
Coimbatore - 18.

...Respondents

PRAYER: Civil Miscellaneous Appeal filed under Section 37(1) (c) of the Arbitration and Conciliation Act, 1996 against the fair and decreetal order dated 29.09.2020 made in Arbitration Original Petition No.401 of 2005 passed by the learned Principal District Court, Coimbatore confirming the Arbitral Award dated 27.02.2003 made in case No.IFC/CBER/3/2003 passed by the Statutory Arbitrator/2nd respondent.

For Appellant : Mr.N.S.Suganthan

For Respondent 1 : Mr.J.Franklin



JUDGMENT

This appeal has been filed under section 37 of the Arbitration and Conciliation Act, 1996 challenging the order dated 29.09.2020 passed by the learned Principal District Judge, Coimbatore in A.O.P.No.401 of 2005 under which, the Arbitral Award dated 27.02.2003 passed in favour of the first respondent under the provisions of The Interest on Delayed Payments to Small Scale And Ancillary Industrial Undertakings Act, 1993 was confirmed.

2. The Appellant has raised several grounds challenging the Arbitral Award dated 27.02.2003 passed against them under which the Appellant was directed to pay a sum of Rs.69,102/- together with interest and costs to the first respondent for the non-payment of the value of the supplies made by the first respondent to the Appellant.

3. The learned Principal District Judge, Coimbatore under the impugned order dated 29.09.2020 passed in A.O.P.No.401 of 2005 under section 34 of the Arbitration and Conciliation Act has dismissed the application by giving the following reasons:

(a) The Appellant has admitted its liability to the first respondent in the conciliation proceedings initiated by the second respondent and they have only sought for waiver of interest; and

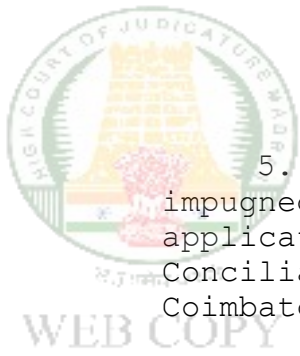
(b) The Appellant has not made the mandatory deposit of 75% of the Award amount as per section 7 of the Interest on Delayed Payments to Small Scale And Ancillary Industrial Undertakings Act, 1993.

4. Even in this appeal filed under section 37 of the Arbitration and Conciliation Act, aggrieved by the aforementioned order, the grounds raised in section 34 application have once again been reiterated by the Appellant. The Appellant has raised the following grounds:

(a) There is no arbitration agreement between the Appellant and the first respondent;

(b) The Appellant is not liable to pay the value of the supplies, since the supplies made by the first respondent was of substantiated quality;

(c) The principles of natural justice has been violated by the second respondent counsel before passing the Arbitral Award as according to them, no sufficient opportunity of hearing was granted to them by the second respondent council.



5. Only after considering the aforementioned grounds, the impugned order has been passed rejecting the Appellant's application filed under section 34 of the Arbitration and Conciliation Act by the learned Principal District Judge, Coimbatore.

6. This Court does not want to go into the merits of the matter, since admittedly, the Appellant has not deposited the mandatory deposit for filing an application under section 34 of the Arbitration and Conciliation Act.

7. Section 7 of the Interest on Delayed Payments to Small Scale And Ancillary Industrial Undertakings Act, 1993 reads as follows:

"7.Appeal. - No appeal against any decree, award or other order shall be entertained by any Court or other authority unless the appellant (not being a supplier) has deposited with it seventy-five per cent, of the award amount in terms of the decree, award or as the case may be, other order in the manner directed by such Court or, as the case may be, such authority."

As seen from the aforementioned section, no appeal before any court can be entertained as against an arbitral award passed by the second respondent Council under the aforementioned Act, unless and until, the party aggrieved by the said award deposits 75% of the award amount.

8. In the case on hand, admittedly, the Appellant has not made the mandatory deposit for filing an application under section 34 of the Arbitration and Conciliation Act. The appeal provision of section 7 of the Interest on Delayed Payments to Small Scale And Ancillary Industrial Undertakings Act, 1993 is pari materia to the provisions of section 19 of the Micro, Small and Medium Enterprises Development Act, 2006. Section 19 of the aforementioned Act reads as follows:

" 19. Application for setting aside decree, award or order.- No application for setting aside any decree, award or other order made either by the Council itself or by any institution or centre providing alternate dispute resolution services to which a reference is made by the Council, shall be entertained by any Court unless the appellant (not being a supplier) has deposited with it seventy-five per cent, of the amount in terms of the decree, award or, as the case may be, the other order in the manner directed by such Court:



the impugned order dated 29.09.2020 passed by the learned Principal District Judge, Coimbatore are hereby confirmed and this Appeal is dismissed. No costs.

WEB COPY

Sd/-
Assistant Registrar(CCC)

//True Copy//

Sub Assistant Registrar

nl

To

1. The Principal District Judge,
Coimbatore.
2. The Chairman,
Regional Industrial Facilitation Council,
Department of Industries and Commerce,
Codissia,
G.D.Naidu Towers,
T.B.Road,
Hozur Road,
Coimbatore - 18.
3. The Section Officer,
V.R.Section,
High Court of Madras.

+1CC to Mr.J.Franklin, Advocate, Sr.No.53803
+1CC to Mr.N.S.Suganthan, Advocate, Sr.No.53862

C.M.A.No.1646 of 2021

SSV (CO)
K.RK. (19.11.2021)