

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 08.03.2021

Coram

THE HONOURABLE MR. JUSTICE M.SUNDAR

**O.P.No.595 of 2020 &
A.No.3068 of 2020**

M/s. East Coast Constructions and Industries Ltd.,
Rep. By its Authorised Signatory Mr.Eliass A Latif
Having its Registered Office at
Buhari Building, No.4, Moores Road
Chennai – 600 006 ... Petitioner

vs.

M/s.Blue Star Limited
Rep. By its Authorised Signatory / Power Agent
Mr.Ganesh
Having its Regional Office at
No.46, Garuda Building
Cathedral Road, Chennai – 600 086 ... Respondent

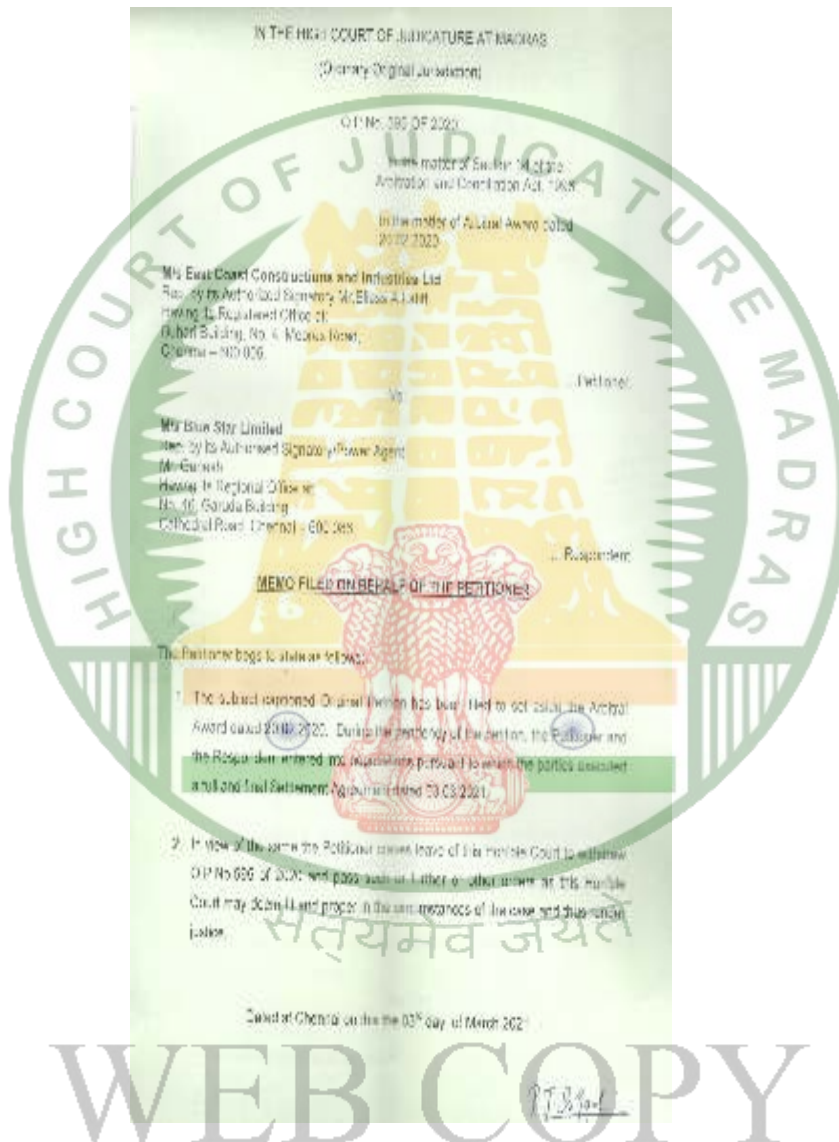
Petition filed under Section 34 (2)(b)(ii) and 2A of the Arbitration and Conciliation Act, 1996 to set aside the award dated 20.02.2020 passed by the Arbitral Tribunal to the extent as aggrieved by the petitioner herein, in respect of the arbitral proceedings between the Petitioner and the Respondent and pass such other or other orders as this Court may deem fit and proper in the circumstances of the case.

For Petitioner : Mr.P.J.Sri Ganesh

ORDER

Mr.P.J.Sri Ganesh, learned counsel on record for sole petitioner is before me, learned counsel submits that there has been out of Court settlement and

seeks leave of this Court to withdraw captioned 'Original Petition' ('OP' for the sake of brevity) . Learned counsel submits that he has filed a memo dated 03.03.2021 to this effect. This memo is as follows:



2. Mr.P.J.Sri Ganesh, learned counsel reiterates the contents of the above memo and requests for refund of full Court fee.

3. This Court following the law laid down by Hon'ble Supreme Court in ***The High Court of Judicature at Madras Vs. M.C.Subramaniam & Ors.*** reported in **2021 SCC OnLine SC 109** accedes to the request qua refund of full Court fee. To be noted, relevant paragraphs in ***M.C.Subramaniam***'s case are paragraphs 26 and 27 and the same read as follows:

'26. Thus, even though a strict construction of the terms of Section 89, CPC and 69-A of the 1955 Act may not encompass such private negotiations and settlements between the parties, we emphasize that the participants in such settlements will be entitled to the same benefits as those who have been referred to explore alternate dispute settlement methods under Section 89, CPC. Indeed, we find it puzzling that the Petitioner should be so vehemently opposed to granting such benefit. Though the Registry/State Government will be losing a one-time court fee in the short term, they will be saved the expense and opportunity cost of managing an endless cycle of litigation in the long term. It is therefore in their own interest to allow the Respondent No. 1's claim.

27. Thus, in our view, the High Court was correct in holding that Section 89 of the CPC and Section 69-A of the 1955 Act be interpreted liberally. In view of this broad purposive construction, we affirm the High Court's conclusion, and hold that Section 89 of CPC shall cover, and the benefit of Section 69-A of the 1955 Act shall also extend to, all methods of out-of-court dispute settlement between parties that the Court subsequently finds to have been

legally arrived at. This would, thus, cover the present controversy, wherein a private settlement was arrived at, and a memo to withdraw the appeal was filed before the High Court. In such a case as well, the appellant, i.e., Respondent No. 1 herein would be entitled to refund of court fee.'

(underlining made by this Court for ease of reference)

4. Captioned OP is dismissed as withdrawn. Registry is directed to treat this order as a direction to refund full court fee, process refund of full Court fee subject to standard deductions if any and subject of course to learned counsel for petitioner complying with procedural requirements. At request of learned counsel for petitioner, the Court fee shall be refunded by way of an instrument drawn in favour of petitioner company, namely 'East Coast Constructions and Industries Ltd.' There shall be no order as to costs. Consequently, A.No.3068 of 2020 is closed.

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08.03.2021

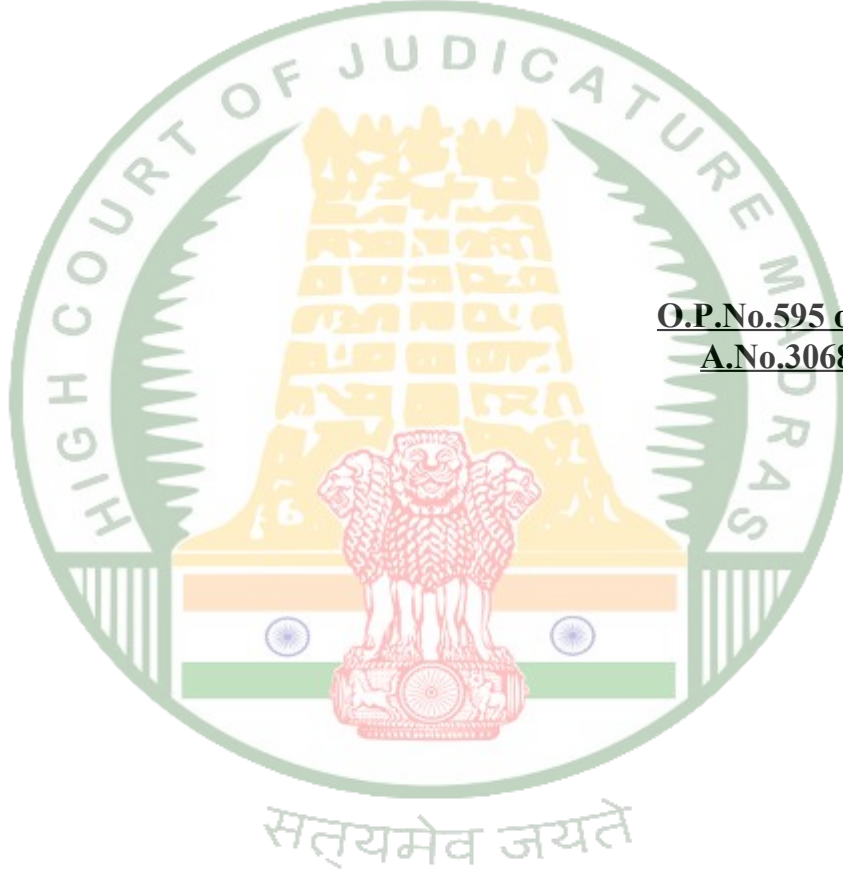
Speaking order: Yes/No
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M.SUNDAR.J.,

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