

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 18.03.2021

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THE HONOURABLE MR. JUSTICE M.SUNDAR

O.P.No.657 of 2019 &

A.No.769 of 2020 and A.No.6074 of 2019

in

O.P.No.657 of 2019

1. M/s.Apollo Soyoz Electricals Pvt. Ltd.,
Represented by its Director
Mr.Girdhargopal Ramratham Jalani
Plot EL-74/75, MDC Mahape
Navi Mumbai – 400 701
2. Mr.Girdhargopal Ramratan Jalani
Director, M/s.Apollo Soyoz Electricals Pvt. Ltd.,
S/o. 1701/1702, Astoria Raheja Garden
LBS Marg, 17th Floor
Thane – 400 604
3. Ms.Kusum Girdhargopal Jalani
W/o.Girdhargopal Jalani
1701/1702, Astoria Raheja Garden
LBS Marg, 17th Floor
Thane – 400 604

... Petitioners

vs.

M/s.Equitas Small Finance Bank Limited
Formerly known as Equitas Finance Ltd.,
Represented by its Manager-Legal
Spencer Plaza, 4th Floors, Phase II
No.769, Mount Road
Anna Salai

Chennai – 600 002

... Respondent

Petition filed under Section 34 of the Arbitration and Conciliation Act, 1996 to set aside the award dated 08.03.2019 and pass such other or other orders as this Hon'ble court may deem fit and proper in the facts and circumstances of the case and thus render justice.

For Petitioners : Mr.Suhrith Parthasarathy

For Respondent : Mr.A.Damodharan

ORDER

Captioned 'Original Petition' ('OP' for the sake of brevity) and applications therein are being disposed of by this consent order.

2. An 'arbitral award dated 08.03.2019 made in Claim Petition No.SAP/ESFB/BL-019/2018' (hereinafter 'impugned award' for the sake of brevity) has been assailed in captioned OP by the three respondents before 'Arbitral Tribunal' ('AT' for the sake of brevity). Though obvious, it is made clear that captioned OP is an application under Section 34 of 'The Arbitration and Conciliation Act, 1996 (Act 26 of 1996)', which shall hereinafter be referred to as 'A and C Act' for the sake of brevity. Mr.Suhrith Parthasarathy, learned counsel for petitioners in captioned OP is before this Virtual Court. Sole claimant before AT is the lone respondent in captioned OP and Mr.A.Damodaran, learned counsel on record for lone

respondent is also before this Virtual Court.

3. Petitioners in captioned OP have taken out captioned Application No.769 of 2019 with a prayer to implead the sole arbitrator, who constituted the AT and made the impugned award. This application is predicated on issues raised qua disclosure under Section 12(1) read with Explanation 2 of A and C Act and sixth schedule of A and C Act. Owing to the consensus that has been arrived at between the petitioners and respondent regarding disposal of captioned OP and captioned applications by a consent order, it is deemed unnecessary to delve into this aspect any further.

4. Aforementioned two learned counsel very fairly submit, on instructions, that the impugned award can be set aside and the parties will go for re-arbitration by a sole arbitrator to be appointed by this Court at its discretion.

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5. In the light of the aforementioned stated position of the two sides, the following consent order is passed:

- a) Impugned award being award dated 08.03.2019 made in Claim Petition No.SAP/ESFB/BL-019/2018 is set aside without

expressing any opinion on merits of the matter.

b) Though obvious, for the purpose of specificity, it is made clear that all questions qua lis between the parties are left open to be tested in re-arbitration.

c) This Court appoints Mr.Sanjay Pinto, Advocate having office at No.5, 'Manasarovar', 60, C.P.Ramaswamy Road, Alwarpet, Chennai – 600 018 (Mob: 98400 91547 & 98840 91547) as the sole arbitrator to enter upon the lis out of which captioned OP arises, to adjudicate and make an award in accordance with A and C Act;

d) Learned sole Arbitrator shall conduct arbitration at the 'Madras High court Arbitration and Conciliation Centre under the aegis of this Court' ('MHCAC' for brevity) in accordance with the Madras High Court Arbitration Proceedings Rules, 2017 and the Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees), Rules 2017.

e) Order dated 17.03.2020 disposing of A.No.4479 of 2019 which this Court is informed is a post award application under Section 9 of A and C Act will continue to operate and remain undisturbed by both parties upto a period of three months from the date of receipt of signed copy of the award to

be made by the sole Arbitrator, as there are multiple parties, the last of the dates will be the reckoning date for this purpose.

Captioned OP and captioned application A.No.769 of 2002 are disposed of. Consequently, A.No.6074 of 2019 is closed. No costs.

18.03.2021

Speaking order: Yes/No
Index: Yes/No
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Note to Office:

1. Registry shall communicate this order to Mr.Sanjay Pinto, Advocate, at No.5, 'Manasarovar', 60, C.P.Ramaswamy Road, Alwarpet, Chennai – 600 018 (Mob: 98400 91547 & 98840 91547) forthwith.

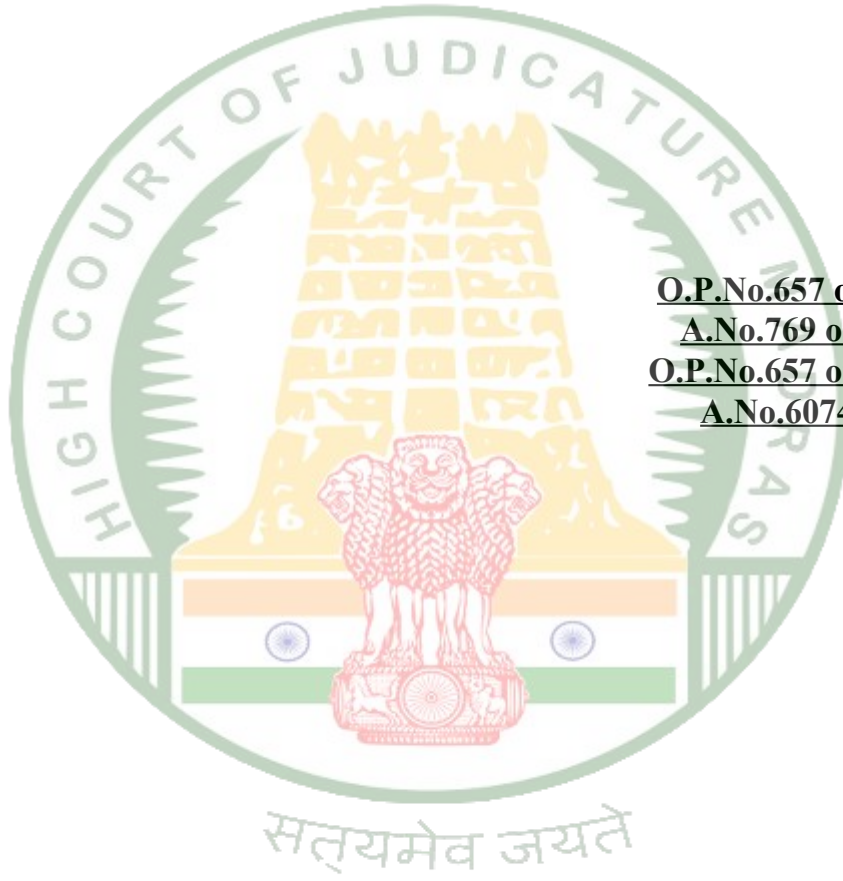
2. Records of the AT shall be sent to MHCAC and the same shall be kept with/in the custody of the Registrar in the Arbitration Centre for being handed over to the learned Arbitrator.

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M.SUNDAR.J.,

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