

DI. May 20,
9. 2022

F.M.A.T. 137 of 2022

Neo Metaliks Ltd.

Vs,

Bapi Samanta & Ors.

Mr. Jishnu Choudhury,

Mr. Sandip Agarwal,

Mr. Tanay Agarwal,

...for the petitioner.

Mr. Kishor Dutta,

Ms. Sumita Shaw,

Mr. Rishad Medora,

Mr. Devdutt Mukherjee,

Mr. Meghajit Mukherjee,

Mr. Vidhya Bhusan Upadhyay

...for the alleged contemnors.

Re. CPAN 457 of 2022

filed on May 12, 2022.

And

CAN 2 of 2022 (modification)

filed on May 17, 2022.

By consent of the parties, the application for contempt being CPAN 457 of 2022 and the application for modification being CAN 2 of 2022 are taken up together and disposed of on the following agreed terms:

1. The applicant will amend the Sight LC into a Usance LC upon a written request letter from the appellant within 7 working days for the balance contract value against following documents to be provided by the appellant:

a. GST Sale Invoice for 10,000 MT;

b. Delivery Order for supply of 10,000 MT of Coke from a single port plot in favour of the applicant with a copy to the Handling Agent, Customs Authorities and the Port Authorities.

c. Confirmation Letter to all concerned authorities stating that the applicant is authorized to lift the 10,000 MT of Coke.

2. The applicant shall be liable for and shall make payment of Port Handling charges and other charges in terms of the contract.

3. The amended LC will be discounted by the applicant through the applicant's bankers under the applicant's limit within another 3 days after submission of originals of (a) bill of exchange, (b) GST Sale Invoice, (c) Irrevocable Delivery Order and (d) Confirmation Letter as mentioned in 1(c) above by the appellant to the banker of the applicants. It is pertinent to add that the discounting/interest and incidental charges will be borne by the applicant. The applicant will submit proof of dispatch documents to the bankers from time to time.

4. The appellant undertakes to start giving delivery of the 10,000 MT of materials to the applicant immediately after receiving the balance consideration through the said Usance LC without any delay. The appellant undertakes to provide full co-operation and to

ensure that the materials are delivered.

5. If within June 13, 2022 the appellant does not receive the entire balance consideration for the goods, it would be free to sale and deal with the 10,000 MT of LAM Coke and the parties would then make all claims in the arbitration.

6. The undertakings filed by the respective parties shall be exchanged and the original bank guarantee furnished by the applicant in terms of the order dated April 28, 2022 be handed over to the appellant within 7 days from date. The bank guarantee shall be invoked in terms of the order dated April 28, 2022 only after giving 14 days' prior notice in writing to be given to the applicant in this regard.

7. However, all issues are left open to be raised before the learned Arbitrator.

There will be no order as to costs.

dns

(Ajoy Kumar Mukherjee, J.)

(Soumen Sen, J.)