

OCD-12 & 13

ORDER SHEET
IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

AP-COM/8/2023

TAMRALIPTA COOPERATIVE SPINNING MILLS LTD.
VS
WINSOME YARNS LTD.

AND

AP-COM/9/2023

TAMRALIPTA COOPERATIVE SPINNING MILLS LTD.
VS
WINSOME YARNS LTD.

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 19th December, 2023.

Appearance:

Mr. Sayantan Chatterjee, Adv.

Mr. Pourush Bandyopadhyay, Adv.

Mr. Soumyajyoti Nandy, Adv.

...for the petitioner

The Court: The dispute arises out of Agreements dated 27th September, 2018 and 23rd September, 2019 under which the petitioner was to supply raw cotton to the respondent. The commercial relationship between the petitioner and the respondent started from 2016 and the parties used to execute annual agreements for several years thereafter. The dispute relates to the unpaid dues to the petitioner amounting to approximately Rs.31 crores.

The petitioner tried several means to realise the money which was due and owing to the petitioner. A letter of demand dated 16th December, 2020 has been placed before the Court.

Learned counsel appearing for the petitioner submits that out of 72 cheques given by the respondent, the petitioner could encash only 13 but could not realise any amount with regard to the petitioner's claim since all the cheques were subsequently dishonoured.

The petitioner ultimately invoked the arbitration clause contained in the arbitration agreements dated 27th September, 2018 and 23rd September, 2019 by way of a notice dated 31st August, 2023. The notice invokes the arbitration clauses in both the agreements of 27th September, 2018 and 23rd September, 2019. The respondent has not replied to the invocation notice.

No one appears for the respondent.

The respondent was first served by post on 13th December, 2023. The postal track records 'Item Delivered'. The respondent was also served by mail on 12th December, 2023.

Having considered the submissions made on behalf of the petitioner and the documents brought on record, there is indeed a dispute between the parties and one that is relatable to the arbitration agreements. There are no documents to show that the respondent has made any payment in respect of the agreements dated 27th September, 2018 and 23rd September, 2019.

AP-COM/8/2023 and AP-COM/9/2023 are accordingly allowed and disposed of by appointing Mr. Dhiraj Trivedi, Counsel to act as the Arbitrator

subject to the learned Arbitrator communicating his consent in the prescribed format to the Registrar, Original Side of this Court within three weeks from date.

The petitioner's advocate-on-record shall communicate this order on the learned Arbitrator by 22nd December, 2023 along with the requisite details of the contact person of the petitioner.

(MOUSHUMI BHATTACHARYA, J.)

sg.