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O.S.A.(CAD) No.13 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.10.2023

CORAM

THE HONOURABLE MR. JUSTICE D.KRISHNAKUMAR
and
THE HONOURABLE MR. JUSTICE P.DHANABAL

O.S.A.(CAD) No.13 of 2022

OPG ENERGY PVT. LTD.
Presently at "Knowledge Tower,
4th Floor, New No.36,
Sanjeevarayanpettai,
Little Mount, Chennai 600015.

...appellant

Vs.

M/s.Precot Meridian Industries Ltd.,
SUPREM, PB 7161, Green Fields,
737, Puliakulam Road,
Coimbatore 641045.

...respondent

Prayer: Original Side Appeal filed under Order XXXVI Rule 9 of the Original Side Rules read with clause 15 of the Amended Letters Patent, 1865 and Section 37 of the Arbitration and Conciliation Act, 1996 and Section 13 of the Commercial Courts, Commercial Division and Commercial Appellate Division of the High Courts Act, 2015 against the judgment and decree passed by the learned Single Judge of this Court in OP.No.103 of 2016 dated 05.02.2021.

For Appellant

: Mr.AR.Karthik Lakshmanan



J U D G M E N T

[Judgment of the Court was delivered by D.KRISHNAKUMAR, J]

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The learned counsel for the appellant states before this Court that the dispute between the parties have been amicably settled out of Court. Therefore, he seeks permission of this Court to withdraw the appeal and also to refund of the Court fees to the appellant in the light of the decision of the Supreme Court in the case of *the High Court of Judicature at Madras, Rep. by its Registrar General vs. M.C.Subramaniam & others* in SLP(Civil) Nos.3063-3064 of 2021. In this regard, he has also made an endorsement in the bundle and also filed a memo, dated 04.10.2023. The relevant paragraph of the said judgment reads as follows:

"19. We find ourselves in agreement with the approach taken by the High Courts in the decisions stated supra. The purpose of Section 69-A is to reward parties who have chosen to withdraw their litigations in favour of more conciliatory dispute settlement mechanisms, thus saving the time and resources of the Court, by enabling them to claim refund of the court fees deposited by them. Such refund of court fee, though it may not be connected to the substance of the dispute between the parties, is certainly an ancillary economic incentive for pushing them towards exploring alternative methods of dispute settlement. As the Karnataka High Court has rightly observed in Kamalamma (supra), parties who have



agreed to settle their disputes without requiring judicial intervention under Section 89, CPC are even more deserving of this benefit. This is because by choosing to resolve their claims themselves, they have saved the State of the logistical hassle of arranging for a third-party institution to settle the dispute. Though arbitration and mediation are certainly salutary dispute resolution mechanisms, we also find that the importance of private amicable negotiation between the parties cannot be understated. In our view, there is no justifiable reason why Section 69-A should only incentivize the methods of out-of-court settlement stated in Section 89, CPC and afford step-brotherly treatment to other methods availed of by the parties.

Admittedly, there may be situations wherein the parties have after the course of a long-drawn trial, or multiple frivolous litigations, approached the Court seeking refund of court fees in the guise of having settled their disputes. In such cases, the Court may, having regard to the previous conduct of the parties and the principles of equity, refuse to grant relief under the relevant rules pertaining to court fees. However, we do not find the present case as being of such nature.

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21. 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



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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."

2. In view of the above submission, memo and the endorsement made by the learned counsel for the appellant, this appeal is dismissed as withdrawn as settled out of Court. The appellant is entitled to the refund of Court fee of Rs.1,00,000/- (Rupees one lakh only). No costs.

[D.K.K., J] [P.D.B., J]
04.10.2023

Index : Yes / No
Speaking order: Yes/No
pvs



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