

22.05.2024
Suppl.1
Court No.8
(gc)

**RVW 161 of 2024
CAN 1 of 2024**

**Steel Authority of India
Vs.
M/s Amit Metaliks Ltd. & Anr.**

**In
FMAT 181 of 2024
CAN 2 of 2024**

**M/s Amit Metaliks Ltd.
Vs.
Steel Authority of India & Anr.**

Mr. Jishnu Chowdhury,
Mr. Aritra Basu,
Ms. Pallavi Gogoi
...for the Applicant/SAIL.
Mr. Kishore Datta, Ld. A.G.,
Mr. Anirban Ray, Ld. G.P.,
Mr. Piyush Agarwal,
Ms. Shrivalli Kajaria,
Mr. Debojyoti Das
...for the Respondents.

**Re: RVW 161 of 2024
CAN 1 of 2024
With
CAN 2 of 2024
In
FMAT 181 of 2024**

1. By consent of the parties, the review application and the recalling application are treated as on the day's list and disposed of by this common order.
2. This is an application for review of an order passed by a Coordinate Bench in which one of us (*Partha Sarathi Sen, J.*) was a

party. This matter is assigned to this Bench by the Hon'ble the Chief Justice on 22nd May, 2024 and upon mentioning both the matters are listed today in the supplementary cause list.

3. Mr. Jishnu Chowdhury, learned Counsel appearing on behalf of the applicant/SAIL has submitted that the order passed by the Coordinate Bench on 16th May, 2024 requires review as there are apparent errors on the face of record. Mr. Chowdhury submits that the bank guarantee is more than a crore. There is a forum selection clause and arbitration clause in the agreement. The City Civil Court is no way connected with the performance of the contract and hence the City Civil Court does not have either the pecuniary or territorial jurisdiction to entertain the suit.
4. It is further submitted that the order directing *status quo ante* would mean that the applicant would be required to refund the amount realized by reason of invocation of the bank guarantee and the claim period for the bank guarantee would expire on 23rd June, 2024. Unless the same is extended till the disposal of the

injunction application of the applicant would be remediless.

5. In view of the fact that previous order directing *status quo ante* and the irreparable injury the applicant would likely to suffer in the event the bank guarantee is not renewed, we modify the order to the extent that the SAIL shall not be required to return the amount already realized subject to the undertaking filed in the pending suit that in the event it is held that invocation of the bank guarantee was improper and illegal, SAIL shall return the said amount to the plaintiff bank with interest at the rate of 10% per annum. The said undertaking shall be filed in the pending suit on or before 10th June, 2024.
6. Insofar as the extension of the bank guarantee is concerned, we direct the plaintiff to extend the bank guarantee initially for a period of six months from 23rd June, 2024 with a claim period for one year and the original renewed bank guarantee shall be filed in the suit on or before 10th June, 2024.
7. The interim order passed on 16th May, 2024 shall continue till 28th June, 2024 or till any order is passed on the returnable

date by the learned Trial Court whichever is earlier.

8. We have been informed that the matter is fixed before the learned Trial Court on 13th June, 2024.
9. It would be open for the applicant either to pray orally for vacating the interim order or to file a substantive application for the same relief. In the event any oral prayer is made, the applicant shall not be entitled to rely upon any other document, save and except, the plaint and the injunction application with annexures.
10. In the event the Trial Court is desirous of extending the interim order, the Trial Court shall record a reason after hearing the learned Counsels for the parties and decide the matter uninfluenced by the order passed on 16th May, 2024 and on this date.
11. We make it clear that we have not gone into the merits of the matter.
12. Accordingly, the review application being RVW 161 of 2024, connected application being CAN 1 of 2024 and the recalling application being CAN 2 of 2024 in FMAT 181 of 2024 stand disposed of.
13. However, there shall be no order as to costs.

14. Urgent Photostat certified copy of this order, if applied for, be supplied to the parties upon compliance of all formalities.

(Soumen Sen, J.)

(Partha Sarathi Sen, J.)