

01.02.2024
Ct. No. 19
Sl. No.36
Cp/Gb

C.O. 2671 of 2022

Dhanashree Electronics Limited
Vs.
Dakshinanchal Vidyut Vitaran Nigam Limited

Mr. Ankit Agarwala,
Ms. Alotriya Mukherjee

... for the Petitioner.

Mr. Pradip Kumar Dutta,
Mr. Purnasish Roy

... for the Opposite Party.

Elaborate arguments were advanced with regard to the validity of the order directing the opposite party to furnish a bank guarantee. Such order was passed by the learned Commercial Court at Rajarhat, North 24 Parganas in Misc. (Arb) 63 of 2021. 75% of the award was directed to be secured by a bank guarantee. This court is not required to go into the issue at this point, as the matter can be resolved in the following manner:-

- 1) The interest component shall be deposited by the opposite party in cash.
- 2) The final quantum of the interest component will be determined by the learned court upon making a comparative analysis of the calculations arrived at by both the parties.
- 3) As an interim measure towards deposit of the interest component, the opposite party will deposit

Rs.8,00,00,000/- (Rupees Eight Crores only) in the learned court below in cash, within February 23, 2024. Such deposit will be without prejudice to the rights and contentions of the parties in the proceeding and without prejudice to the ultimate calculation of the interest component that may be arrived at and determined by the court.

- 4) The petitioner will be allowed to withdraw the said amount of Rs.8,00,00,000/- within March 1, 2024, on the basis of the pending application, subject to all undertakings and terms and conditions as the learned court may deem fit and proper and upon furnishing of such affidavits/undertakings before the learned court in this regard.
- 5) The terms and conditions for withdrawal shall be settled by the learned court and this Court does not express any opinion on that.
- 6) The remaining part of the interest component, if any, will be deposited by the opposite party as determined by the court, upon considering the calculation. The other proceeding before the learned court shall be decided thereafter.

If, upon determination of the amount, the learned court is of the view that further money was required to be deposited by the opposite party towards the interest component, the prayer of the opposite party for

instalments, shall be decided strictly in accordance with law. If the proceeding continues over a period of time and the petitioner prays for withdrawal again, such prayer shall also be decided in accordance with law.

This exercise shall be completed within the time fixed by this order and thereafter, the proceeding shall continue on the basis of the pending applications.

The revisional application is accordingly disposed of. There shall be no order as to costs.

Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)