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W.P. No.3290 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.09.2024

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P. No.3290 of 2022

and

W.M.P. No.3430 of 2022

M/s.Welmech Engineering Company Pvt. Ltd.,
Rep. by its Managing Director,
Preetham Kumar

... Petitioner

Vs

1. The Financial Adviser cum
Chief Accounts Officer,
Central Organisation for Modernisation
of Workshop,
Railway Offices Complex,
Tilak Bridge,
New Delhi – 110 002.

2. The Assistant General Manager,
State Bank of India,
Trade Finance CPC,
SBI Building,
6th Floor, Chennai – 600 002.

3. The Assistant General Manager,
State Bank of India,
SME Branch Ambattur,
No.86A & B 2nd Main Road,
Ambattur Industrial Estate,
Ambattur, Chennai – 600 058.

... Respondents



W.P. No.3290 of 2022

Writ Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, forbearing the 1st respondent from in any manner seek extension of bank guarantee No.:0505620BG0000694 furnished by the petitioner for the contract dated 11.05.2018 period for 18 and enforceable for further 6 months based on its letter dated 14.01.2022 addressed to the 2nd respondent which is absolutely unilateral, illegal and unlawful.

For petitioner : Mr.T.S. Rajamohan
For respondents : Mr. Rajesh Vivekanandan for R1
Ms.S.R. Sumathi for R2 & R3

ORDER

This writ petition has been filed to forbear the 1st respondent from in any manner seek extension of bank guarantee No.:0505620BG0000694 furnished by the petitioner for the contract dated 11.05.2018 period for 18 and enforceable for further 6 months based on its letter dated 14.01.2022 addressed to the 2nd respondent which is absolutely unilateral, illegal and unlawful.

2. It is stated that the petitioner entered into an agreement with the 1st respondent on 11.05.2018 for supply of Electric Furnace Annealing including concomitant accessories, electric furnace normalising, accordingly the furnaces were commissioned on 11.09.2019. It is further stated that as per the said contract, the warranty for the machines supplied was for two years computable from 11.09.2019 ending upto 11.09.2021. At the time of entering into contract, the petitioner executed the Warranty Bank Guarantee



(WBG). Now, after the expiry of the warranty period, the 1st respondent vide their letter dated 14.01.2022 sought for extension of the WBG for 18 and enforceable for further 6 months. As the said extension sought for by the 1st respondent is arbitrary and illegal, the petitioner has come up before this Court by invoking Article 226 of the Constitution of India.

3. Learned counsel for the petitioner submitted that the contract period was completed in the year 2021 itself and thus the extension of WBG sought for by the 1st respondent is unsustainable and the unilateral action on the part of the 1st respondent is arbitrary and illegal. On that score, he prays for issuance of appropriate directions to the respondents.

4. Denying the submissions made by the learned counsel for the petitioner, Mr.Rajesh Vivekanandan, learned counsel for the 1st respondent submitted that as per PTC Certificate, the machine was received by the 1st respondent, belatedly i.e. on 27.03.2019 and 30.03.2019 respectively and thereby there was an initial variation. Reiterating the counter affidavit, particularly paragraph Nos.7 to 10, he submitted that the furnace was commissioned only on 11.09.2019 and as per PTC, the original warranty obligation was upto 09.06.2022. He further submitted that the contractual warranty obligation was not fulfilled by the petitioner and therefore the



W.P. No.3290 of 2022

warranty extension was obligated under the contract was upto 18.03.2023 and 16.07.2023 respectively, i.e. after extending the warranty period for two breakdown machines. He also submitted that since the WBG was not extended by the petitioner firm and therefore, the same was being encashed. Hence, the prayer sought for by the petitioner is unjustifiable and not maintainable. In view of the above, he submitted that the writ petition may be dismissed.

5. Heard the submissions made by the learned counsel on either side and perused the materials placed before this Court.

6. Admittedly, the petitioner Firm and the 1st respondent entered into a contract. The contract was dated 11.05.2018. It is not in dispute that pursuant to the said contract, a proforma Bank Guarantee towards Warranty Guarantee was furnished by the petitioner. From the submissions made by the learned counsel for the respondents, it is noticed that the petitioner has not fulfilled the terms of contract and the contractual obligation was continued to be enforced on the petitioner firm for renewal of WBG. If there is any dispute or non-fulfillment of the terms, the parties must redress their grievances before the appropriate forum and not by invoking Article 226 of the Constitution of India. Hence, the prayer sought for by the petitioner is



W.P. No.3290 of 2022

not maintainable.

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7. For the reasons aforesaid, this writ petition is devoid of merits and, accordingly, the same is dismissed. However, liberty is granted to the petitioner to work out the remedy in the manner known to law viz., to invoke arbitration clause, if any. No costs. Consequently, connected miscellaneous petition is closed.

30.09.2024

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
vsi2

M.DHANDAPANI, J.

vsi2

To
1. The Financial Adviser cum
Chief Accounts Officer,
Central Organisation for Modernisation
of Workshop,
Railway Offices Complex,

5/6



W.P. No.3290 of 2022

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