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W.A.No.1874 of 2021

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 18.07.2024

CORAM

THE HONOURABLE MR. JUSTICE S.M.SUBRAMANIAM
and
THE HONOURABLE MR. JUSTICE C.KUMARAPPAN

W.A.No.1874 of 2021
and
C.M.P.No.11972 of 2021

M/s. Export Credit Guarantee Corporation of India Ltd.,
(now ECGC Limited)
Chennai Exporters Branch,
Spencers Towers, 7th Floor,
770-A, Anna Salai,
Chennai-600 002.

... Appellant

Vs.

Texel Industries,
Rep. by its Sole Proprietrix,
No.1, Third Cross Street,
2nd Floor, CIT Colony,
Myapore, Chennai-600 004.

... Respondent

Prayer :- Writ Appeal filed under Clause 15 of Letters Patent, praying to set aside the Order dated 18.11.2019 made in W.P.No.28226 of 2008 and allow this Writ Appeal.



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For Appellant : Mr.Krishna Srinivasan, Senior Counsel,
for M/s.S.Rama Subramaniam & Assoc.

For Respondent : Mr.Vijay Narayan, Senior Counsel for
Mr.Prahalad Bhat.

J U D G E M E N T

(Judgement of the Court was delivered by S.M.Subramaniam J.)

The Writ Appeal on hand has been instituted by the respondent in the writ petition challenging the order of the W.P.No.8226 of 2008 dated 18.11.2019.

2. The learned counsel for the appellant would mainly contend that the claims set out in the writ petition by the respondent is relating to contractual obligations. Such disputed facts relating to contracts cannot be adjudicated by the Writ Courts. In the present case, the Writ Court exercised the powers of judicial review by interfering with the disputed facts which all are to be considered only in trial natured proceedings. Thus, the order impugned is to be set aside.



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3. Mr.Prahalad Bhat, learned Senior Counsel, appearing on behalf of the respondent would oppose by stating that the respondent has produced documents to establish that the appellant failed to consider certain vital documents for invoking exclusion clause under the policy. The Writ Court has not adjudicated the issues on merits but remanded the matter back to the appellant to reconsider the materials submitted by the respondent and take a decision.

4. Though we are able to appreciate the contention raised on behalf of the respondent, unable to approve the proposition mooted out. Issues relating to contracts cannot be adjudicated in a writ proceedings and merely based on certain documents produced in the writ petition, one cannot fix liability or invoke exclusion clause under the policy. It requires an elaborate adjudication based on the documents which all are to be scrutinised through trial natured proceedings.

5. Courts have entertained the writ petition in exceptional cases where the facts are not in dispute between the parties. Those cases cannot be cited as precedent for the purpose of entertaining a writ petition against



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contractual matters in a routine manner. Therefore, the scope of exercise of powers of judicial review under Article 226 cannot be expanded for the purpose of adjudication of disputed facts, more specifically in contractual matters.

6. Learned Senior Counsel, appearing on behalf of the respondent, would urge by stating that Courts have considered such issues. But we are of the opinion that it is exceptions and cannot be followed as precedent. The power of judicial review under Article 226 of the constitution is to ensure the processes through which a decision has been taken by the authority in accordance with the provisions of the Act and Rules but not the decision itself.

7. Yet another ground raised is that the Writ Court just remanded the matter and it is open to the appellants to reconsider the issues. Even for such reconsideration, the respondent has to approach the competent Civil Court of law or the forum constituted for adjudication of such issues. Therefore, adjudication of disputed facts relating to contractual obligations are not entertainable and in the event of entertaining such adjudication, there is a likelihood of prejudice being caused to any one of



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the parties. Therefore, we are inclined to interfere with the writ order.

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8. In the event of the respondent, instituting a suit or approaching the forum concerned, the period during which the writ petition and writ appeal were pending before the High Court is to be taken into consideration for the purpose of condoning the delay and the issues are to be decided on merits and in accordance with law.

9. In view of the facts and circumstances, the writ order impugned dated 18.11.2019 in W.P.No.28226 of 2010 is set aside and accordingly, the writ appeal stands allowed. No costs. Consequently, connected miscellaneous petition is closed.

(S.M.S.J.,)

(C.K.J.,)

18.07.2024

Index : Yes/No

Internet: Yes/No

Speaking order/Non-Speaking order

Neutral Citation : Yes/No

(sha)

To

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S.M.SUBRAMANIAM, J.

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