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Arb.OP(Com.Div)No.575 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 10.06.2024

CORAM:

THE HONOURABLE MR.JUSTICE KRISHNAN RAMASAMY

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Fomento Resources Pvt. Ltd.,
Represented by its authorised signatory,
Mr.Kaustubh Sawkar.
Having its registered address at:
Casa Del Sol, Casa-3-325,
Next to Goa Marriott, Miramar,
Panaji, Goa 403 001.

...Petitioner

Vs.

Emirates Trading Agency LLC,
having its registered/business address at:
Ascon House, Salahuddin Road,
PO Box No.5239, Dubai, Deira UAE (in Bankruptcy)
Represented through its Trustee Mr.Redha
Darwish Al Rahma,
having his address at:
JPA Auditing and Accounting,
Office No.1005, Opal Tower, 10th Floor, Business Bay,
Burj Khalifa Boulevard, Dubai, UAE.

....Respondent

Prayer:- This Arbitration Original Petition has been filed under Sections 47 & 49 of the Arbitration and Conciliation Act, 1996 to declare that the Second Partial Award dated 29.02.2016 read with Addendum dated



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14.07.2016 and Cost Award dated 31.01.2017 be deemed to be a Decree of this Court and consequently direct the respondent to pay an amount of Rs.487,89,57,751.95/- along with an interest at the rate of 3.25% per annum on US\$ 39,472,800 from the date hereof until realization.

For Petitioner : Mr.Adarsh Subramanian

For Respondent : Mr.P.Udhaya Kumar
(vakalat not filed)

ORDER

This Arbitration Original Petition has been filed under Sections 47 & 49 of the Arbitration and Conciliation Act, 1996 to declare that the Second Partial Award dated 29.02.2016 read with Addendum dated 14.07.2016 and Cost Award dated 31.01.2017 be deemed to be a Decree of this Court and consequently direct the respondent to pay an amount of Rs.487,89,57,751.95/- along with an interest at the rate of 3.25% per annum on US\$ 39,472,800 from the date hereof until realization.

2. This Court vide order dated 03.06.2024, issued direction to the petitioner to serve notice on the respondent-company. In order to comply the same, the petitioner served private notice on the respondent-company, since the respondent-company went into liquidation process, notice was served to the Resolution Professional appointed by the Trustee



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of the respondent-company in liquidation by virtue of e-mail dated 04.06.2024 and a copy of the e-mail has also been filed to that effect and the respondent-company name also printed in the cause list.

3. Initially Mr.R.Udhayakumar, learned counsel undertook to file vakalat for the respondent-company and it is reported that the company went into the liquidation process.

4. At this juncture, the learned counsel for the petitioner submitted that the respondent-company already went into the liquidation process, hence, he restricts his prayer only with regard to execution of foreign awards dated 29.02.2016, 14.07.2016 and 31.01.2017, which can be deemed to be decree of this Court, while reserving its rights to seek for enforcement of the said Arbitral Awards as against the respondent at a subsequent stage.

5. Heard the submission made by the learned counsel for the petitioner also perused the Second Partial Award dated 29.02.2016 read with Addendum dated 14.07.2016 and Cost Award dated 31.01.2017.



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6. This Court is fully satisfied and accordingly, the Arbitration Original Petition is ordered to an extent of declaring the Second Partial Award dated 29.02.2016 read with Addendum dated 14.07.2016 and Cost Award dated 31.01.2017 (Arbitral Awards) deemed to be a Decree of this Court, while reserving its rights to seek for enforcement of the said Arbitral Awards at later stage.

7. With the above, the Arbitration Original Petition is allowed.

No costs.

10.06.2024

Index:Yes/No

Web:Yes/No

Speaking/Non Speaking

Neutral Citation:Yes/No

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KRISHNAN RAMASAMY.J

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