

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6196 OF 2024

HB Estate Developers Limited

...Petitioner

Versus

Gladiance Automation Pvt. Ltd.

...Respondent

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Mr. H. S. Bobby Chandhoke (*through VC*) a/w. *Deepali Chandhoke, Rugved More, Krishna Kant Choudhary and Niharika Chauhan for Petitioner.*

Mr. Nagesh Y. Chavan, *for Respondent.*

CORAM : SOMASEKHAR SUNDARESAN, J.

Date : December 4, 2025

ORDER :

1. By an order dated April 26, 2025, a Learned Single Judge of this Court has been pleased to stay the impugned order dated March 15, 2024, by which 75% of an amount of Rs. 61.90 lakhs had been directed to be deposited as a pre-deposit for consideration of a challenge under Section 34 of an arbitral award dated December 15, 2021, passed by the MSME Facilitation Council under the Micro, Small and Medium Enterprises Development Act, 2006 (“**MSMED Act**”).

2. Learned Advocate for the Petitioner points out that an initial

computation of the awarded amount was received from the Respondent in the sum of Rs. 21.84 lakhs computing interest on the awarded sum of Rs. 7.05 lakhs from October 2015 onwards. Thereafter, when the Petition under Section 34 was actually filed, this computation was revised to Rs. 22.06 lakhs. While the proceedings under Section 34 were pending, a new application was taken out, recomputing the amount required to be deposited in the sum of Rs. 61 lakhs, interpreting the operative part of the award as an entitlement to interest commencing every time a bill was presented and remained unpaid, thereby attracting further interest.

3. The operative part of the arbitral award which gives rise to the controversy is in relief No. 2, which is extracted below :

2) Respondent is hereby required to pay to the Petitioner an amount of Rs. 7,05,518/- (Rs. Seven Lakh Five Thousand and Five Hundred Eighteen Only) along with interest as per the provisions of the section 15 and 16 of MSMED Act, 2006 till actual realization of amount from the Respondent.

4. Evidently, the award provides for interest as per the provisions of Sections 15 and 16 of the MSMED Act until actual realisation of the amount. In Paragraph 11 of the arbitral award, it is

explicitly recorded that an email had been sent on December 6, 2015, asking for payment of Rs. 7,12,563/-.

5. The impugned order does not deal with the manner in which the amounts have differed from the initial computation of Rs. 21.84 lakhs and the subsequent computation of Rs. 22.06 lakhs, to eventually, a computation of Rs. 61 lakhs. It would be necessary for the impugned order to deal with how and which of the computations is accurate, and thereafter, return a finding on the amount to be deposited.

6. In these circumstances, considering that the order has remained stayed for the last one and half years, and with no progress in the Section 34 proceedings either, the interests of the Respondent, who is a judgement creditor too have been affected. Therefore, in exercise of the extraordinary writ jurisdiction, it is felt appropriate to pass the following order:-

A) The Impugned Order is set aside and remanded to the District Judge-19, Pune which is seized of the Section 34 proceedings to explicitly return a finding on the accurate computation, preferably within a period of three weeks from the upload of this order on this Court's website, returning a finding as to which of the

computations is accurate. The parties shall be at liberty to explain to the Learned Judge, the manner in which they have arrived at the computations, so that the Learned Judge can pass a reasoned order as to which of the computations would be appropriate;

B) Meanwhile, the Section 34 proceedings may be proceeded with in view of the stay of the Impugned Order, so that the parties would know their position one way or the other. Since for the last one and half years, the Section 34 proceedings have not been conducted despite the stay on the Impugned Order, it is felt appropriate to issue this direction in disposal of this Writ Petition; and

C) Once the computation is made, if it is found that further deposit must be made, the Petitioner shall do so within two weeks of such computation being rendered.

7. The core direction in this order is that the Section 34 proceedings must not be held up over a dispute on the computation of the pre-deposit, since it is evident that after April 20, 2024, nothing has moved in the matter with the dispute being restricted to the quantum of the pre-deposit, despite the stay on the Impugned Order. Such a position is actually against the interests of the Respondent, who is the

statutory protectee of the provisions entailing a pre-deposit of the amount involved in an arbitral award, and the Respondent's entitlements remained suspended with the dispute over the pre-deposit. It is in these circumstances that this direction is being issued.

8. Now that the Impugned Order has been vacated with a remand as above, the Section 34 proceedings shall commence and once the computation is positively made, the pre-deposit shall be topped up by the Petitioner, even while the Section 34 proceedings are conducted.

9. The Respondent shall also be at liberty to seek a withdrawal of the amounts already deposited by making an appropriate application to the Learned Judge.

10. The Writ Petition is ***finally disposed of***. Needless to say, nothing in this order is an expression of the opinion on the merits of any facet of the matter, including on any of the three computations.

11. All actions required to be taken pursuant to this order, shall be taken upon receipt of a downloaded copy as available on this Court's website.

[SOMASEKHAR SUNDARESAN, J.]