

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION PETITION NO.105 OF 2025

Atul Projects India Private Limited

...Petitioner

Versus

Zeus Housing And Construction Ltd.

...Respondent

Mr. Roop M. Vasudeo *a/w. Ms Priyanka Rane, Advocates for Petitioner.*

Mr. Ramesh Ramamurthy *a/w. Saikumar Ramamurthy & Ms Seema Sorte, Advocates for Respondent.*

CORAM: SOMASEKHAR SUNDARESAN, J.

DATE : FEBRUARY 25, 2025

PC :

1. This is a Petition filed under Section 27 of the Arbitration and Conciliation Act, 1996 (*"the Act"*), seeking assistance of the Court in connection with documentary evidence necessary for conduct of the arbitral proceedings.

2. It is seen from the record that by an Order dated November 18, 2024, the Learned Sole Arbitrator had granted approval to the Petitioner to file this Petition to seek assistance in taking evidence in respect of the documents mentioned in Paragraphs 1(a), 1(b), 1(c) and 1(d) and Paragraph 3 of the application that had been filed before the Learned Sole Arbitrator.

3. Learned Counsel on behalf of the Petitioner submits that the prayers made at Paragraphs 21(a), (b), (c), (d) and (e) of this Petition conform to the paragraphs referred to in the Learned Arbitral Tribunal's Order dated November 18, 2024.

4. It is seen from the submissions made by the parties that the request is a very narrow one. Essentially, entries in accounts held by the Petitioner in Citibank NA between June 1, 2016 and nov 30, 2021 would be necessary evidence in the course of conduct of the arbitration proceedings. What is sought is certification under the Bankers' Books Evidence Act, 1891 ("**BBE Act**"). Citibank NA has transferred its consumer banking business to Axis Bank Limited due to which Axis Bank Limited is said to have informed the Petitioner that it does not have copies of the old records. Consequently, a direction has been sought from this Court to Citibank NA to ensure that such documents along with such certification are made available. This prayer is evidently required to be allowed – I do so, by directing Axis Bank Ltd. And Citibank NA jointly and severally to ensure that the statements of the bank account held in Citibank NA during the aforesaid period are provided with certification under the BBE Act.

5. As regards the prayers in Paragraphs 21 (b), (c), (d) and (e), they relate to bank accounts held by the Respondent in various banks, namely, Bank of Baroda (Chakala Branch), Axis Bank (Worli Branch) and Syndicate Bank (Matunga Branch). The request is for information in respect of the specific accounts and the account statements for the specific period as set out in the prayers referred to above. It would follow that there would be no prejudice caused by asking for these bank account statements to be brought on record with certification by the respective bank under the BBE Act. Each of the aforesaid banks is

hereby directed to make available the statements along with the certification as prayed.

6. It is made abundantly clear that the passing of this order will not in any manner constitute an expression of an opinion of this Court on the merits of the evidence contained therein and the implications of such evidence in the arbitration proceedings.

7. Consequently, the prayers sought in Paragraphs 21(a), (b), (c), (d) & (e) are hereby granted. The Registry shall issue appropriate summons to the respective banks and to the Chief Compliance Officers of these banks. The banks in question are directed to comply with the directions issued pursuant to this order ***no later than March 24, 2025***.

8. Advocates for the Petitioner shall approach the Registry with a copy of this Order to carry the matter forward and carry out the requisite formalities.

9. The Petition is ***finally disposed of*** in the aforesaid terms.

10. 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.]