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Arb O.P.(COM.DIV.) No. 597 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS
DATED: **28-04-2025**
CORAM
THE HONOURABLE MR JUSTICE ABDUL QUDDHOSE

**Arb O.P(COM.DIV.) No. 597 of 2023
and Application No.6820 of 2023**

M/s.Shri Lakshmi Thanganagai Malligai,
Rep.by its Proprietor, Mr.Nainar Murugesan
No.30A/20, Arumanayagam Complex,
Kalakad 627 501

Petitioner

Vs

M/s.Krishna Jewel Creators
Rep.by its Managing Partner
Mr.N.Sivakumar, now functioning
at No.1, Pankajam colony 1st street,
Madurai 625 009

Respondent

For Petitioner: Mr.D.Saikumaran,
For Respondent: Mr.Avinashwathwani
for Mrs.V.Srimathi

ORDER

This petition has been filed challenging the impugned arbitral award dated 12.09.2023 passed by the Arbitrator pursuant to a reference made under Micro, Small and medium Enterprises Development Act, 2006 (hereinafter referred to as "MSME Act, 2006").

2. Section 19 of the MSME Act, 2006, makes it clear that any application



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for setting aside the arbitral award shall not be entertained by any Court unless the petitioner deposits with the Court, 75% of the amount in terms of the award. In the instant case, the petitioner, while filing the petition under Section 34 of the Arbitration and Conciliation Act, 1996 has not complied with the statutory requirements of Section 19 of the MSME Act, 2006 by depositing 75% of the award amount, instead the petitioner has filed this petition in the year 2023 along with an application seeking to dispense with the pre-deposit amount as stipulated under Section 19 of the Arbitration and Conciliation Act, 1996.

3. Even though, this Court had granted leave to the petitioner to prosecute this petition by depositing 10% of the award amount, this Court is of the considered view that in view of the decision rendered by the Hon'ble Supreme Court in ***Gujarat State Disaster Management Authority v. Aska Equipments Ltd., reported in (2022) 1 SCC 61*** wherein the Hon'ble Supreme Court has held that the Court has no discretion to deviate from the condition of 75% of the award amount as a pre-deposit of the amount as per Section 19 of MSME Act, 2006, the question of entertaining this petition does not arise, since the petitioner has not complied with the mandatory requirement of deposit of



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75% of the award amount while filing this petition under Section 34 of the Arbitration and Conciliation Act, 1996, and therefore, this Court has to dismiss this petition at the threshold itself.

4. Even though, the learned counsel for the petitioner would submit that the petitioner is now willing to deposit 75% amount as stipulated under Section 19 of the Arbitration and conciliation Act, 1996, at this belated stage, in view of the statutory prohibition, the request of the petitioner cannot be entertained and the same will have to be rejected. In a connected matter, judicial notice is also taken note of by this Court that in a very similar matter involving another party, the said party has settled the claim of the respondent by arriving at an amicable settlement and the same has been recorded by this Court today in O.P.No.486 of 2023. In the said matter, the petitioner therein has agreed to pay a sum of Rs.7 lakhs towards full and final settlement of the respondent claim and in fact, has paid an advance of Rs.4,56,924/- towards part payment to the respondent and has agreed to pay the balance amount by withdrawing the amount lying to the credit of O.P.No.486 of 2023.



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ABDUL QUDDHOSE,J.
vsi

5. In view of the well settled law laid down by the Hon'ble Supreme Court in the aforesaid decision, this petition is not maintainable, since the petitioner has not made the statutory pre-deposit amount as stipulated under Section 19 of the MSME Act, 2006. Accordingly, this Petition is dismissed on the ground of maintainability. Consequently, connected Application is closed.

28.04.2025
(2/2)

vsi

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