30.01.2026
SL No.8
Court No.6
(gc)

CO 123 of 2026

M/s. Dakshinanchal Vidyut Vitran Nigam Limited
Vs.
M/s. Dhanashree Electronics Limited

Mr. Anshul Suri
Mr. Abhirup Das,
Mr. Sarbajit Choudhuri,
Mr. Surajit Chakraborty
.....for the Petitioner.
Mr. Supratik Basu
...for the Opposite Party.

1. The petitioner is aggrieved by an order dated October 31, 2025 passed by the learned Judge, Commercial Court at Rajarhat, North 24 Parganas in Misc. Arb (Com) - 24/2024. The petitioner is aggrieved by the direction of the learned Commercial Court to deposit a sum of Rs.40,18,40,030.31/- towards the interest component as per the calculation certified by Chartered Accountant of the opposite party.

2. The learned Advocate for the petitioner submits that the said calculation by the Chartered Accountant is not a part of the award. Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006 (in short *"MSMED Act"*) permitted the petitioner to file an application for setting aside the award. The statutory mandate being that, the challenge to the award would not be entertained by the Court unless the petitioner deposited 75% of the awarded sum.

According to the petitioner, although the Arbitral Tribunal recognized the liability of the petitioner to pay compound interest at the rate of 3 times the RBI rate, the interest component was not quantified. Thus, according to the petitioner, the quantum of interest did not form part of the award. The amount of interest calculation was a subsequent event when the Chartered Accountant of the opposite party filed a calculation before the learned Commercial Court before which the application under Section 19 of the MSMED Act was filed.

3. Reliance has been placed on the following decisions of this Court in support of the contention that, if the interest component was not quantified by the Tribunal, the Tribunal would fail in its statutory duty to pass the award in a proper form. The person aggrieved by the said award will be liable to deposit 75% of the principal amount calculated, as the interest calculator did not form a part of the award. The decisions are:-

i) ***Government of Maharashtra Vs. Shrivin Pharma Pvt. Ltd. (AP 90 of 2023, IA No: GA 2 of 2023) dated 12th October, 2023***;

ii) ***Hindusthan Engineering & Industries Ltd. Vs. Metaflux Company Pvt. Ltd. (AP 21 of 2018) dated 9th February, 2018***.

4. Learned Advocate for the opposite party submits that the award includes the interest component. The

awarded sum has to be on a composite calculation of both the principal and interest. Section 16 enjoins the duty upon the buyer to pay compound interest at the rate of 3 times the bank rate of the RBI. The MSMED Act being a special statute, enacted for protection of medium scale industries. A purposive interpretation should be given to the provisions of Section 16. The legislative intent was to ensure that the seller should be duly protected and continue with the business despite pendency of any dispute before a forum. The interest rate was also made higher as the industry should not suffer.

5. According to the learned Advocate, the seller is entitled to withdraw the deposit to be made, irrespective of the final adjudication of the amount payable. That is why compound interest at the rate of 3 times of bank rate of RBI was allowed. If the pre-deposit is to be made solely on the principal awarded, the same shall render the provision of Section 16 nugatory.

6. He relies on a decision of this Court in the matter of ***V.K. Patel and Co. Vs. Simplex Infrastructure Limited*** reported at ***2024 SCC OnLine Cal 6617*** to demonstrate how the appointed date, the monthly rests etc. should be calculated.

7. Unfortunately, the said decision was rendered in an execution case where the final adjudication was made with regard to the amount payable in execution of the award. The case before this Court is slightly different.

8. The question is, if the interest component is not quantified by the Arbitral Tribunal in the award, whether the petitioner should be forced to deposit 75% of the amount calculated by a Chartered Accountant at a later stage, after the publication of the award. The calculation was not a part of the award. The award is a decree. It has to be enforced like a decree. Here, the sum calculated by the court, does not, prima facie, appear to be the decretal amount. The Chartered Accountant, was directed to make the final calculation by the Arbitral Tribunal. Hence, in my view, at this stage it would be improper to rely solely on the Chartered Accountant's calculation and direct deposit of 75% of the principal and interest as calculated. The issue can be decided at the final hearing of the application under Section 34 of the Arbitration and Conciliation Act, 1996. The liability of the buyer to pay interest is a part of the award as per the provision of Section 16, but as the quantum has neither been adjudicated nor specified, to hold that the Chartered Accountant's calculation is full and final, and forms part of the award would be prima facie unjust.

9. Under such circumstances, this Court is of the view that a further sum of Rs.1 crore, over and above Rs.8 crores which was already deposited by the petitioner and withdrawn by the opposite party, shall be deposited before the learned Commercial Court at Rajarhat within three weeks from date by demand draft, and/or in the same manner as was done at the earlier stage and the opposite party will be allowed to withdraw the said amount by furnishing a counter-guarantee.

10. This order is being passed without prejudice to the rights and contentions of the parties and without prejudice to the merits of the application pending before the learned Commercial Court.

11. The learned Commercial Court will decide all issues in accordance with law. With the deposit of further amount of Rs.1 crore, the appeal filed by the petitioner shall be regularized and the learned Court shall dispose of the appeal strictly in accordance with law and independently.

12. Accordingly, the revisional application is disposed of.

13. There shall be no order as to costs.

14. Parties are to act on the server copy of this order.

(Shampa Sarkar, J.)