IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

SAYALI DEEPAK UPASANI

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ARBITRATION PETITION NO. 186 OF 2026

Sritech Consulting Inc. … Petitioner

V/s.

Yooil Engineering Co Ltd … Respondents

Mr. Ansh Agal with A. Pareek and A. Shirodkar i/b Jain Law Partners LLP, for Petitioner.

CORAM : AMIT BORKAR, J.

DATED : OCTOBER 01, 2026

P.C.:

1. The present Petition is filed under Section 9 of the Arbitration and Conciliation Act, 1996. The facts and circumstances because of which the present Petition has been filed are stated hereunder.

2. Around the year 2015, the Respondent approached the Petitioner with an intention to take the services of the Petitioner for Government projects in India. After discussions between the parties, a Consultancy Agreement came to be executed. The Respondent signed the Agreement on 7 September 2015 and the Petitioner signed it on 9 September 2015. Under the said Agreement, the Petitioner was appointed as the exclusive Business Development Consultant for the Respondent. It was agreed that the Respondent would pay the Petitioner 10% of the

value of every purchase order received in respect of Government projects in the States of Andhra Pradesh, Bihar, Delhi, Orissa, Telangana and Uttar Pradesh.

3. The Respondent made some payments towards the consultancy fees. However, according to the Petitioner, a substantial amount out of the agreed consultancy fees is still remaining unpaid. The Petitioner states that several emails and reminders were sent to the Respondent asking for payment. Despite the same, the Respondent has not made the remaining payment and has not complied with its obligations under the Agreement. The Petitioner apprehends that the Respondent may deal with or dissipate its assets and that the Petitioner may suffer loss which may not be properly recovered later. The Petitioner has, therefore, approached this Court under Section 9 of the Arbitration and Conciliation Act, 1996, seeking urgent interim protection and other reliefs. On 7 September 2015, the Respondent signed and executed the Consultancy Agreement under which the Petitioner was appointed as the exclusive Business Development Consultant for Government projects in India. Thereafter, on 9 September 2015, the Petitioner signed and executed the said Consultancy Agreement. Under the Agreement, the Respondent agreed to pay the Petitioner 10% of the value of each purchase order received in relation to Government projects in the States of Andhra Pradesh, Bihar, Delhi, Orissa, Telangana and Uttar Pradesh.

4. During the period from 2016 to 2019, the Petitioner provided business development and advisory services to the Respondent under the said Agreement. According to the Petitioner, as a result of these services, the Respondent was able to secure various Government projects. Thereafter, on 7 January 2022, the Petitioner sent a payment reminder to the Respondent and requested that the consultancy fees payable under the Agreement be released.

5. On 4 January 2023, the Petitioner issued a Legal Notice to the Respondent calling upon the Respondent to pay the outstanding consultancy fees. Thereafter, on 26 April 2023, the Respondent acknowledged the role played by the Petitioner and expressed its willingness to compensate the Petitioner. The Respondent expressed its willingness to revise the terms for settlement. Subsequently, on 25 November 2023, the Respondent confirmed its acceptance of the revised terms. These revised terms included payment of the outstanding dues as well as transfer of shares. However, according to the Petitioner, even after accepting the revised terms, the Respondent did not comply with the same.

6. After the revised and modified terms of the Consultancy Agreement were accepted, further correspondence took place between the parties regarding payment of the outstanding professional fees and remuneration claimed by the Petitioner for the consultancy services already provided. There were several communications and discussions between the parties on this

issue. Thereafter, by a letter dated 4 January 2024, the Respondent formally acknowledged and confirmed the amount which, according to the Respondent, was due and payable to the Petitioner.

REASONS AND FINDINGS

7. The Petitioner's case is based on the Consultancy Agreement entered into between the parties in September 2015. The Respondent signed the Agreement on 7 September 2015 and the Petitioner signed it on 9 September 2015. Under the said Agreement, the Petitioner claims to have been appointed as the exclusive Business Development Consultant for Government projects in the concerned States. The Petitioner relies upon the term of the Agreement under which it was to receive 10% of the value of the purchase orders received for such Government projects. The Petitioner has stated that during the period from 2016 to 2019, it provided business development and advisory services to the Respondent. According to the Petitioner, after these services were provided, the Respondent secured various Government projects. It is relevant that the Petitioner did not raise its claim for the first time only when the present proceedings were filed. A payment reminder was already sent by the Petitioner on 7 January 2022. Thereafter, a Legal Notice dated 4 January 2023 was issued. Therefore, from the record it appears that the question of payment was being raised between the parties for some time.

8. The conduct of the Respondent after receiving the claim of the Petitioner is relevant. According to the Petitioner, on 26 April 2023, the Respondent acknowledged the role of the Petitioner and expressed willingness to compensate the Petitioner. The Respondent expressed willingness to revise the settlement terms. Thereafter, on 25 November 2023, the Respondent confirmed acceptance of the revised terms. Those terms included payment of the dues and transfer of shares.

9. The communication dated 4 January 2024 is important for the present purpose. The Petitioner relies upon this communication as an acknowledgment of the amount payable to it. The relevant portion of the communication, as reproduced in the Petition, reads as follows:

> "Yooil Korea agrees to pay Rs. 4.5 Crores (equivalent in $) from Yooil Infrastrucutre, India revenue to Shritech Consulting, Inc. as per earlier agreement and continued discussion on accepted modified agreement moving forward in good faith. Rs. 4.5 Crores (in $) which is 6% of Yooil Infrastructure 50% revenue in India till February 2024 since the Yooil Infrastrucutre got started by Yooil Engineering, Korea with local partners in India and will be paid in three (3) instalments every 8 months starting from August 2024 completing full payment in next 18-24 months."

10. At this stage, I am not deciding the effect of this communication. I am not holding that the complete amount of Rs.4.50 Crores will be found payable to the Petitioner in arbitration. These questions will have to be decided by the learned Arbitral Tribunal after the parties place their evidence and make their submissions. However, the words used in the communication are important for considering whether the Petitioner has made out a prima facie case for interim protection.

11. The Respondent has not remained silent regarding the Petitioner's claim. The communication relied upon by the Petitioner contains the words “Yooil Korea agrees to pay Rs. 4.5 Crores”. It refers to the “earlier agreement and continued discussion on accepted modified agreement”. The communication further provides for payment in three instalments. Therefore, at least at this stage, the document shows that discussions took place between the parties and that there was acceptance by the Respondent regarding payment of Rs.4.50 Crores to the Petitioner. It is possible that an acknowledgment of an amount may not prove the entire claim of the Petitioner. There may be questions regarding the revised arrangement, the exact calculation of the amount, the liability of the Respondent, the meaning of the reference to 6% and the manner in which the payment was to be made. These questions can be considered in arbitration. But merely because such questions may arise, the prima facie importance of the

communication dated 4 January 2024 cannot be ignored.

12. Therefore, at this stage, the Petitioner has been able to show a prima facie case. The claim is not based only on a statement without supporting material. There is a written Consultancy Agreement. There is correspondence regarding the unpaid amount. There is a Legal Notice. There were further discussions regarding settlement. Most importantly, there is the written communication dated 4 January 2024 containing the clear words "Yooil Korea agrees to pay Rs. 4.5 Crores".

13. The next question is whether, in these circumstances, the Respondent should be directed to furnish security. Section 9 gives power to the Court to grant interim protection where such protection is necessary for securing an amount which may become payable under an arbitral award. The Supreme Court, while considering the powers of the Court under Section 9, has recognised that in appropriate cases the Court can direct security for a claim. In *Essar House Private Limited v. Arcellor Mittal Nippon Steel India Limited (2022) 20 SCC 178,* the Supreme Court considered an order directing security under Section 9. While considering the objection regarding absence of unencumbered assets with the respondent, the Supreme Court recognised the power of the Court under Section 9 to secure a claim where a prima facie case for such protection is made out. This principle has to be considered in the facts of the present case.

14. In the present case, the Court is not directing the Respondent to pay Rs.4.50 Crores to the Petitioner. The Court is not holding that the Respondent is liable to pay the said amount. The direction is only to furnish security for the amount. The purpose is that, if the Arbitral Tribunal finds the amount payable, the Petitioner should not be left without an effective remedy for recovery of the award.

15. The balance of convenience supports this limited protection. If the Respondent furnishes security and the Petitioner does not succeed in arbitration, the Respondent would continue to deal with its assets according to law, subject to the nature and terms of the security. On the other hand, if no protection is granted and the Petitioner succeeds, but in the meantime the Respondent deals with its assets in such a manner that the award becomes difficult to recover, the Petitioner may face serious difficulty in getting the benefit of the award.

16. At the same time, the apprehension expressed by the Petitioner regarding dissipation of assets cannot be treated as proof that the Respondent is actually removing or disposing of its assets. The Court therefore has to remain careful while granting relief. However, in the present case, the Petitioner is not primarily seeking attachment of every asset of the Respondent. The main relief sought is that the Respondent should furnish security for Rs.4.50 Crores.

17. The Petitioner has sought in prayer clause (a). In my view, this prayer can be granted without causing undue prejudice to the Respondent. The Respondent is not being directed to immediately pay the disputed amount to the Petitioner. It is only required to secure the amount. Such an order leaves the final dispute open for consideration by the Arbitral Tribunal.

18. The prayer for disclosure of assets requires separate consideration. In the facts of the present case, such disclosure is necessary so that the direction regarding security can be made effective. If the Respondent is required to furnish security of Rs.4.50 Crores, there is a reasonable need to know its general financial position and assets for the limited purpose of ensuring that the security can be furnished and that the protection granted by the Court is not defeated by subsequent dealings with the assets. The disclosure sought by the Petitioner is different from attachment of all properties. At this stage, the Court is not attaching any property of the Respondent. The Respondent is only required to disclose its assets and financial position on oath. Such disclosure will assist in knowing what assets are available with the Respondent and whether any of those assets are already subject to encumbrances.

19. I therefore find that the Petitioner has established a prima facie case in respect of the amount which is sought to be secured. The balance of convenience is in favour of protecting the possibility of recovery of the amount which may be awarded. The prejudice to the Respondent is limited because the direction

is only for furnishing security and making disclosure. It does not decide the liability of the Respondent.

20. In view of the foregoing discussion, and upon overall assessment of the material record, the following order is passed:

i. the petition is allowed in terms of prayer clauses (a) and (c).

ii. the respondent shall furnish security in favour of the petitioner for an amount of rs.4,50,00,000/- (rupees four crore fifty lakhs only), in such form as may be acceptable to the petitioner, within a period of four weeks from the date of this order.

iii. the respondent shall, within a period of four weeks from the date of this order, disclose on oath the following particulars:

"a. all their properties/assets both immovable and movable and all monies recoverable by it from any person or persons, along with details of any encumbrances and / or fretters on the same, and

b, the Balance Sheets, Bank Statement and Income Lax Returns of the Respondent from the year 2015 onwards till date."

iv. the disclosure affidavit shall contain complete particulars of the assets, liabilities and encumbrances of the respondent, to the extent covered by prayer clause

(c).

v. prayer clause (b), seeking attachment before judgment of the movable and immovable properties of the respondent, is not granted.

vi. prayer clause (e), seeking appointment of the court receiver in respect of the properties of the respondent, is also not granted.

vii. it is clarified that the observations made in the reasons and findings are only for the purpose of considering the interim relief under section 9 of the arbitration and conciliation act, 1996. nothing stated in this order shall be treated as a final expression of opinion on the merits of the claim of the petitioner or the defence of the respondent.

viii. the learned arbitral tribunal shall consider independently all claims made by petitioners and all the defences raised by the respondent.

ix. the petition stands disposed of in the above terms.

x. there shall be no order as to costs.

(AMIT BORKAR, J.)