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IN THE HIGH COURT OF JUDICATURE AT MADRAS

RESERVED ON : 09.02.2026

PRONOUNCED ON : 02.04.2026

CORAM

**THE HONOURABLE MR JUSTICE C.V. KARTHIKEYAN
AND
THE HONOURABLE MR.JUSTICE K.KUMARESH BABU**

OSA(CAD) No. 142 of 2025**and****CMP No.31200 of 2025**

M/s.Unicon Engineers,
Unit 1, 513/A/6, Bharathi Road,
Chinnavendamapatti,
Coimbatore 641 006.

Appellant(s)

Vs

M/s.Super Steam Boiler Engineers Pvt. Ltd.,
Plot No. A-402, TTC Industrial Area,
MIDC Village, Mahabe,
Navi Mumbai 400 701.

Respondent(s)

PRAYER:Appeal filed under Section 13 (A) of the Commercial Courts Act and Order XXXVI Rule 2 of Original Side Rules read with Clause 15 of the Letters Patent and under Section 37 of Arbitration and Conciliation Act to allow the appeal by setting aside the order dated 18.11.2025 made in Appl. No. 5539 of 2025 in Arb.OP(Com Div) Sr.No. 145560 of 2025 and set aside the same.

For Appellant(s): Mr.Om Prakash, Senior Counsel
for Mr.B.Manoharan

For Respondent(s): Mr.N.L.Rajah Senior Counsel
for Mr.K.A.Arun Shabari
for M/s.Amanchi Legal & Co.

**JUDGMENT**

(Judgment of the Court was made by C.V.Karthikeyan J.)

The respondent in A.No.5539 of 2025 in Arb O.P.(Com.Div.) SR.No.145560 of 2025 aggrieved by the order dated 18.11.2025 of a learned Single Judge of this Court is the appellant herein.

2.Arb O.P.(Com.Div.) SR.No.145560 of 2025 had been filed by the respondent M/s.Super Steam Boiler Engineers Pvt. Ltd., under Section 34(2) (b) (ii) of the Arbitration and Conciliation Act, 1996 r/w Section 19 of the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter referred to as 'MSMED Act') seeking to set aside the Arbitration Award dated 07.04.2025 passed by the Sole Arbitral Tribunal in Case No. IAF 10 of 2023. In the said petition, A.No.5539 of 2025 had been filed, again by M/s.Super Steam Boiler Engineers Pvt. Ltd., seeking exemption from deposit of 75% of the amount of the Arbitral Award. The Arbitrator had granted the Award as follows:

"64. In the result, the counter claims are rejected and the Respondent is directed to pay the Claimant a sum of Rs.30,71,386/- (Rupees Thirty Lakhs Seventy One Thousand Three Hundred and Eighty Six Only) along with the compound interest with monthly rests at three times the bank rate of 6.50% notified by the Reserve Bank of India under Notification No.RBI/2024-25/111 DOR.RET.REC.57/12/01.001/2024-25 dated



07.02.2025 and as stipulated in Section 15 & 16 of the MSMED Act, 2006 from 18.09.2010 till the date of realization. No cost."

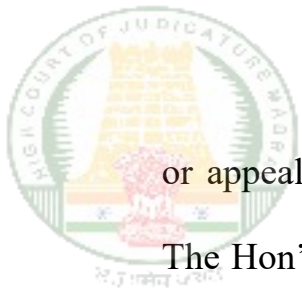
3.The pre-deposit of 75% of the Award amount is mandated under Section 19 of the MSMED Act. The learned Single Judge had held that the Sole Arbitrator had determined the principal amount as Rs.30,71,386/- and had further held that 75% of the pre-deposit amount has to be made insofar as that determinable amount is concerned. In view of that reasoning, a direction was issued to the applicant therein to deposit 75% out of the principal amount of Rs.30,71,386/- together with simple interest at the rate of 6.5% per annum from 18.09.2010 to 04.07.2025. It was further held that if the said amount was not deposited, the original petition will stand rejected.

4.This appeal had been filed challenging the said direction. It had been contended that the said order was in violation of Section 19 of the MSMED Act and its object. It was contended that the directions were also in contrary to the Award, wherein, interest was awarded three times of 6.75% interest as per Sections 15 and 16 of the MSMED Act. It was stated that there cannot be any scope for exempting or waiving the deposit of 75% amount. It was further contended that this Court should ensure that there is strict compliance of the provisions under Section 19 of the MSMED Act and should therefore modify the directions of the learned Single Judge accordingly.



5. The learned Senior Counsel for the respondent however raised the preliminary issue of maintainability of the appeal since the appeal emanates from an order, wherein, exemption of deposit of 75% of the amount was sought and the learned Single Judge had not granted such exemption, but had only determined the principal amount and the interest rate and had directed 75% of such determinable amount should be deposited as a pre-condition to maintain the appeal. The learned Senior Counsel raised the issue of the maintainability of the appeal since under Section 13 (2) of the Commercial Courts Act, 2015, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court except otherwise in accordance with the provisions of the Act. It had been further provided that an appeal shall lie only from such orders that are specifically enumerated under order XLIII of the Code of Civil Procedure. The learned Senior Counsel pointed out that the order under appeal does not fall within the ambit of Order XLIII of the Code of Civil Procedure and therefore stated that the appeal should be rejected as not maintainable.

6. The learned counsel for the appellant however placed reliance on the judgment of the Hon'ble Supreme Court reported in *Goodyear India Limited Vs. Norton Intech Rubbers Private Limited and Another* reported in (2012) 6 SCC 345, wherein, it had been held that a Court had no discretion to either waive or reduce the amount of 75% of the Award as a pre-deposit for filing of application



or appeal against the Award passed under the provisions of the MSMED Act.

The Hon'ble Supreme Court had affirmed the view of the learned Single Judge and the Division Bench of the Madras High Court that the Court had no discretion to either waive or reduce the amount of 75% of the Award as pre-deposit for filing of an appeal. It had been held as follows:

11. Having considered the submissions made, both on behalf of the petitioner and on behalf of the respondents, we do not see any reason to Interfere with the views expressed, both by the learned Single Judge, as also the Division Bench with regard to Section 19 of the 2006 Act. It may not be out of place to mention that the provisions of Section 19 of the 2006 Act, had been challenged before the Kerala High Court in Kerala SRTC v. Union of India, where the same submissions were negated and, subsequently, the matter also came up to this Court, when the special leave petitions were dismissed, with leave to make the predeposit in the cases involved, within an extended period of ten weeks. We may also indicate that the expression "in the manner directed by such court" would, in our view, indicate the discretion given to the court to allow the predeposit to be made, if felt necessary, in instalments.

7.Mr.Om Prakash, learned Senior Counsel for the appellant pointed out the ratio laid down above and stated that the learned Single Judge in his order



dated 18.11.2025 had stated that the only determinable amount is Rs.30,71,386/- and that there was utter confusion so far as the interest is concerned and had therefore granted simple interest at 6.5% which is quite contrary to the terms of the Award which stipulated that compound interest with monthly rests at three times the bank rate of 6.50% notified by the Reserve Bank of India under Notification dated 07.02.2025 shall be paid. The learned Senior Counsel stated that the rate of interest had been determined by the Arbitral Tribunal and modification of this rate of interest into simple interest by the learned Single Judge requires to be interfered with by this Court.

8.However, the scope of arguments had been widened by Mr.N.L.Rajah, learned Senior Counsel who questioned the very maintainability of the appeal. The learned Senior Counsel pointed out that only those orders which had been enumerated under Order XLIII of the Code of Civil Procedure could be appealed against and not other orders.

9.Section 13 of the Commercial Courts Act reads as follows:

13. Appeals from decrees of Commercial Courts and Commercial Divisions. - (1) Any person aggrieved by the judgment or order of a Commercial Court below the level of a District



Judge may appeal to the Commercial Appellate Division within a period of sixty days from the date of judgment or order.

(1-A) Any person aggrieved by the judgment or order of a Commercial Court at the level of District Judge exercising original civil jurisdiction or, as the case may be, Commercial Division of a High Court may appeal to the Commercial Appellate Division of that High Court within a period of sixty days from the date of the judgment or order:

Provided that an appeal shall lie from such orders passed by a Commercial Division or a Commercial Court that are specifically enumerated under [Order XLIII of the Code of Civil Procedure, 1908](#) (5 of 1908) as amended by this Act and [section 37](#) of the Arbitration and Conciliation Act, 1996 (26 of 1996).

(2) Notwithstanding anything contained in any other law for the time being in force or Letters Patent of a High Court, no appeal shall lie from any order or decree of a Commercial Division or Commercial Court otherwise than in accordance with the provisions of this Act.

10. Order XLIII of the Code of Civil Procedure provides for appeals from orders and gives the list of orders under which an appeal can be preferred.

11. We have carefully considered the arguments advanced.



12. It must be pointed out that the Arbitration and Conciliation Act is a self-contained code and where a Special Act sets out a self-contained code, the applicability of the general law procedure would be impliedly executed. It had been held in *Fuerst Day Lawson Ltd vs Jindal Exports Ltd* reported in 2011 8 SCC 333 as follows:

"88. Mohindra Supply Co. was last referred in a constitution bench decision of this Court in P.S. Sathappan, and the way the Constitution Bench understood and interpreted Mohindra Supply Co. would be clear from the following paragraph 10 of the judgment:

"10.....The provisions in the Letters Patent providing for appeal, insofar as they related to orders passed in arbitration proceedings, were held to be subject to the provisions of [Section 39\(1\)](#) and (2) of the [Arbitration Act](#), as the same is a self-contained code relating to arbitration."

89. It is, thus, to be seen that [Arbitration Act](#), 1940, from its inception and right through 2004 (in P.S. Sathappan) was held to be a self-contained code. Now, if [Arbitration Act, 1940](#) was held to be a self-contained code, on matters pertaining to arbitration the [Arbitration and Conciliation Act, 1996](#), which consolidates, amends and designs the law relating to arbitration to bring it, as much as possible, in harmony with the UNCITRAL Model must be held



only to be more so. Once it is held that the *Arbitration Act* is a self-contained code and exhaustive, then it must also be held, using the lucid expression of Tulzapurkar, J., that it carries with it "a negative import that only such acts as are mentioned in the Act are permissible to be done and acts or things not mentioned therein are not permissible to be done". In other words, a letters patent appeal would be excluded by the application of one of the general principles that where the special Act sets out a self-contained code the applicability of the general law procedure would be impliedly excluded.

90. We, thus, arrive at the conclusion regarding the exclusion of a letters patent appeal in two different ways; one, so to say, on a micro basis by examining the scheme devised by *sections 49 and 50* of the 1996 Act and the radical change that it brings about in the earlier provision of appeal under *section 6* of the 1961 Act and the other on a macro basis by taking into account the nature and character of the 1996 Act as a self-contained and exhaustive code in itself.

91. In light of the discussions made above, it must be held that no letters patent appeal will lie against an order which is not appealable under *section 50* of the Arbitration and Conciliation Act, 1996.



13. In the instant case, the learned Single Judge had not waived the mandatory pre-deposit of 75% of the Award amount. He had examined the Award passed and had come to a conclusion about the determinable amount under the Award. However, with respect to the interest portion, the learned Single Judge had imported the words “simple interest”. The Tribunal had stated the interest applicable, but as pointed out by the learned Single Judge, it was not decipherable. If any clarification was required, the same could be given only by the Tribunal. In the instant case, the appellant had filed an application under Section 33 of the Arbitration and Conciliation Act before the Arbitral Tribunal. The Tribunal had however held that the clarification, which in effect to modify the interest rate would not come under the ambit of Section 33 of the Arbitration and Conciliation Act and therefore had dismissed the said petition.

14. In view of this particular fact, we hold as follows:

(i) The order of the learned Single Judge importing the words “simple interest” for the terms of the interest as stipulated by the Arbitral Tribunal cannot be termed either as waiver or reduction of the amount of 75% of the Award amount as pre-deposit. The words “simple interest” has been used only because the interest portion granted by the Tribunal is indeterminable.



(ii) The order of the learned Single Judge does not fall under the ambit of Order XLIII of the Code of Civil Procedure and therefore, this appeal filed under the Letters Patent would not lie.

15. In view of the above reasons, we hold that the order of the learned Single Judge could not be re-examined by us. The appeal stands dismissed. No costs. Consequently, connected miscellaneous petition is also closed.

(C.V.K.J.,) (K.B.J.,)
02-04-2026

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**C.V.KARTHIKEYAN, J.
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K.KUMARESH BABU, J.**

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**Pre-delivery Judgment in
OSA(CAD) No. 142 of 2025**

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