



**IN THE COURT OF 3RD ADDITIONAL DISTRICT JUDGE &
JUDGE COMMERCIAL COURT AT GANDHINAGAR**

Commercial Execution No.12 of 2025

(Order below Exh.1)

1. The present execution petition is filed by the decree holder i.e. M/s. Tapi Prestressed Product Ltd. against the judgment debtor i.e. Gujarat Water Supply and Sewerage Board for recovery of amount as per the order passed by the Arbitral Tribunal on dated 25.05.2023.
2. Ld. Advocate for the judgment debtor file application vide Exh.13 and has deposited entire award amount with interest i.e. sum of Rs.16,08,89,248.87 on 19.01.2026.
3. Ld. Advocate for decree holder submitted that after adjudication of dispute between the parties, Ld. Arbitral Tribunal passed an award. Accordingly, judgment debtor has deposited the award amount before this court. However, judgment debtor has preferred proceedings under Section 34 of Arbitration and Conciliation Act but no stay has been granted by the Commercial Court. Therefore, decree holder is entitled to receive the amount deposited by the judgment debtor.
4. Decree holder filed application vide exh.15 for withdrawal of award amount deposited by the judgment debtor, subsequently filed application vide exh.14 that as the award amount is deposited before the Court, decree is satisfied there is no cause of proceed this execution, hence prayed to dispose of this execution petition.

5. Ld. Advocate for the judgment debtor in its application vide exh.13 requested to this court not to release the amount at this stage. Application under Section 34 is pending before the Commercial Court. The proceedings has not yet attained finality.
6. Considering the submission of both the Ld. Advocate and record of the case following facts emerges as under -
 - Arbitral Tribunal after adjudication of dispute between the parties passed an award of Rs.9,87,08,383/- in favour of decree holder.
 - Judgment debtor has deposited the entire award amount with interest before this court.
 - Application under Section 34 of Arbitration and Conciliation Act is pending before Commercial Court at Ahmedabad.
 - No Stay has been granted against the operation of the Arbitral award.
7. Considering the above aspect it is required to be noted that in view of Section 36 of Arbitral and Conciliation Act filing of an application under Section 34 does not by itself render the Arbitral award unenforceable. The award becomes unenforceable as a decree unless there is specific order of stay granted by the competent court. In absence of any stay order, the decree holder cannot be deprived of the fruits of the award. At the same time the apprehension raised on behalf of judgment debtor also deserves consideration.
8. Therefore balance is required to be struck between rights of the decree holder to enjoy the awarded amount and the right of the judgment debtor to seek restitution in case of success in the pending proceedings. Considering the above aspects and facts of the present case this court is of the opinion that the ends of the justice would be met if the amount is permitted to be withdrawn by the decree holder on passing of appropriate conditions. Hence, I pass following order:

::ORDER::

1. The decree holder i.e. M/s. TAPI Prestressed Products Ltd. is permitted to withdraw the amount of Rs.16,08,89,248.87 deposited by the judgment debtor along with the interest.
2. The decree holder is directed to furnish bank guarantee for equal amount deposited by the judgment debtor before Nazir Shri, District Court.
3. Bank guarantee shall remain operational till final disposal of the application under Section 34 of the Arbitration and Conciliation Act.
4. It is clarified that, in case if the event of judgment debtor succeeds in the proceedings under Section 34, the decree holder shall return the amount in accordance with law.
5. The decree is satisfied and hence the present execution petition is hereby disposed of.

Signed and pronounced today on this 18th day of April, 2026.

Date : 18.04.2026
Place: Gandhinagar

[Piyush Mahendrabhai Unadkat]
3rd Additional District Judge &
Judge Commercial Court,
Gandhinagar (GJ00716)