

IN THE HIGH COURT OF ANDHRA PRADESH AT AMARAVATI

WEDNESDAY, THE FIFTH DAY OF MARCH,

TWO THOUSAND AND TWENTY FIVE

:PRESENT:

HONOURABLE SRI JUSTICE RAVI NATH TILHARI

AND

HONOURABLE SRI JUSTICE MAHESWARA RAO KUNCHEAM

COMMERCIAL COURT APPEAL NO: 36 OF 2024

Between:

Rashtriya Ispat Nigam Limited, Administrative Building, Vishakhapatnam Steel Plant, Represented by its General Manager (Proj) CDY, Vishakhapatnam-530031.

...Appellant

AND

Tata Projects Limited, Rep by its Company Secretary and Head Legal, Dr.A.Raja Mogili. Office - Mithona Towers-1, 1-7-80 to 87, Prenderghast Road, Secunderabad - 500003.

...Respondent

WHEREAS the Appellant above named through his Advocate Sri Kiran Kumar Vadlamudi, presented this COMCA under Section 13(1) A of Commercial Courts, Act 2015 R/w Section 96 of CPC praying that in the circumstances stated in the memorandum of grounds filed in support of the petition, the High Court may be pleased to set-aside the Order dated 10-04-2024 passed in C.O.S.No.8 of 2017 by the Court of the Special Judge for Trial and Disposal of Commercial Disputes, Visakhapatnam, and the award dated 05.07.2016 passed by the sole arbitrator.

IA NO: 2 OF 2024

Petition under Section 151 CPC praying that in the circumstances stated in the affidavit filed in support of the petition, the High Court may be pleased to suspend the operation of the Order dated 10- 04-2024 passed in



C.O.S.No.8 of 2017 by the Court of the Special Judge for Trial and Disposal of Commercial Disputes, Visakhapatnam, Pending disposal of COMCA 36 of 2024, on the file of the High Court.

And whereas the Appeal coming on for hearing, upon perusing the appeal and the memorandum of grounds filed in support thereof and upon hearing the arguments of Sri Kiran Kumar Vadlamudi, Advocate for the appellant and of Sri Vydyula Venkata Saketh Roy, Advocate for the Respondent, the Court made the following

ORDER:

“Heard Sri Kiran Kumar Vadlamudi, learned counsel for the appellant-Rashtriya Ispat Nigam Limited(RINL) in COM.C.A.No.36 of 2024, who is also appearing in COM.C.A.No.12 of 2024 for the respondent.

2. The appellant of the COM.C.A.No.36 of 2024 and the respondent in COM.C.A.No.12 of 2024 is the same party.

3. The plaintiff/respondent-Tata Projects Limited filed Arbitration Case, in which the award was passed on 05.07.2016 against Rashtriya Ispat Nigam Limited(in short ‘R.I.N.L’). Before the Arbitrator, the claim for interest was also made but the said claim was withdrawn in view of the fact that dispute with respect to the interest was not arbitrable in terms of the agreement between the parties as per clauses 28.2 and 28.4.

4. The Arbitrator allowed the claim petition in the following terms:

“The claim application filed by the Claimant is allowed only to the extent of payment of Rs.6,72,24,524/- towards the pro rata value of works executed towards the earth work, wrapping etc., and Rs.74,34,836/- towards service tax and education cess on the said

value. All other claims are rejected. parties shall bear their own costs."

5. The R.I.N.L filed petition under Section 34 of the Arbitration and Conciliation Act, 1996, which was finally dismissed on 10.12.2020. In those proceedings, the stay of the award was granted subject to condition of deposit of 75% of the awarded amount. The R.I.N.L, deposited an amount of Rs.5,59,00,000/- on 10.08.2018 and the same was withdrawn by the plaintiff/respondent-Tata Projects Limited on furnishing bank guarantee. Challenging the order dated 10.12.2020, the respondent filed COM.C.A.No.20 of 2021. In the said case, Coordinate Bench of this Court, considering the deposit, out of the awarded amount, of Rs.5,59,00,000/-, which was also withdrawn by the plaintiff/respondent-Tata Projects Limited, granted interim stay of payment of the balance amount, until further orders. The said appeal is pending before this Court and the interim order, it is submitted that it is operative.

6. The plaintiff/respondent-Tata Projects Limited filed separate suit being C.O.S.No.8 of 2017 claiming the interest amount. Various objections including the entitlement of the interest as also the maintainability of the suit were raised. The Special Judge, finally, holding the suit as maintainable and plaintiff/respondent-Tata Projects Limited entitled for the interest amount to certain extent, decreed partly the suit which was dismissed in part. The operative part of the decree is as under:

"1.That plaintiff shall be entitled to interest @ 9% (nine per cent) per annum from the date of the award (05.07.2016) till the date of this Judgment i.e., 10.04.2024, on Rs.6.72,24,524/- (Rupees six crores, seventy two lakhs, twenty four thousands and five hundred and twenty four only) and thereafter @ 6% (six per cent) per annum on Rs.6,72,24,524/- (Rupees six crores, seventy two

lakhs, twenty four thousands and five hundred and twenty four only) till realisation;

2. that the defendant do pay to the plaintiff a sum of Rs.47,15,463-63 (Rupees forty seven lakhs fifteen thousands four hundred sixty three and sixty three paise only) towards costs of the suit.

3. that rest of the suit claims be and the same are hereby dismissed; and

4. that the suit be and the same is accordingly decreed in part."

7. Learned counsel for the R.I.N.L submits that the suit was not maintainable in view of clauses 28.2 and 28.4 of the agreement as under those clauses, it was provided that the interest part will not be arbitrable and Arbitrator will not have jurisdiction to award any interest.

8. Contrary to the aforesaid submission, Sri Vydyula Saketh Roy, learned counsel for Tata Projects Limited submits that under the agreement the only restriction was that the interest could not be granted by the Arbitrator but that it did not mean nor related to the non-entitlement for interest.

9. The aforesaid contentions, along with the other contentions as may be raised in this appeal, will be considered finally, in due course at time at final hearing. Both the parties have filed the appeals against the same decree.

10. At this stage, on consideration of the submissions advanced as also going through the operative part of the decree that, it has allowed the interest on the awarded amount, as awarded by the Arbitrator, from the date of the award i.e. 05.07.2016 till the date of that judgment i.e. 10.04.2024, we are *prima facie* of the view that, the interest on the awarded amount could not be granted, atleast on the amount of Rs.5,59,00,000/- upto 10.04.2024. The reason is that the suit amount was

deposited under the orders in the year 2018 and the same had also been withdrawn by the present respondent on 10.08.2018, on which fact there is no dispute

11. *Prima facie*, we are of the further view that in view of the clauses 28.2 and 28.4, the Arbitrator could not grant interest but that has nothing to do with the entitlement for interest, subject of course to other clauses of the agreement or/and the statutory provisions.

12. Consequently, the proceedings for execution of the decree dated 10.04.2024 under challenge in C.E.P.No.12 of 2024 on the file of the Special Court for Trial & Disposal of Commercial Disputes, Visakhapatnam, shall remain stayed, subject to the condition that Rashtriya Ispat Nigam Limited(RINL) deposits the amount of

i) interest on the amount of Rs.5,59,00,000/- from the date of the award upto 18.08.2018;

ii) 50% of interest on the rest of the awarded amount, to be calculated as per the decree, and

iii) 50% of the costs as awarded under Point No.2 of the decree within a period of two weeks from the date of receipt of copy of this order, before the Execution Court.

13. Post on 05.05.2025."

//TRUE COPY//

Sd/- S.V.S.R.MURTHY
JOINT REGISTRAR


SECTION OFFICER

To,

1. The Special Judge for Trial and Disposal of Commercial Disputes,
Visakhapatnam.

2. Dr.A.RajaMogili, company secretary and Head Legal, Tata Projects Limited, Office - Mithona Towers-1, 1-7-80 to 87, Prenderghast Road, Secunderabad - 500003. (by RPAD)
3. One CC to Sri Kiran Kumar Vadlamudi, Advocate [OPUC]
4. One CC to Sri V V Saketh Roy, Advocate [OPUC]
5. The Section Officer, O.S. Section, High Court of Andhra Pradesh
6. **Two spare copies.**

CVSS

HIGH COURT

RNT,J & MRK,J

DATED:05/03/2025

POST ON 05.05.2025

ORDER

COMCA.No.36 of 2024

DIRECTION

