

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION
ARBITRATION PETITION NO.1301 OF 2018

Maharashtra Industrial Development Corporation ... Petitioner
Vs.
Bharat Udyog Limited and another ... Respondents

Mr. Atul Damle, Senior Advocate a/w. Mr. Kunal Damle and Ms Shradha Dubepatil i/b. Jay & Co. for Petitioner.
Mr. M. M. Vashi, Senior Advocate and Ms Aparna Deokar i/b. M. P. Vashi & Asso. for Respondents.

CORAM : R. G. KETKAR, J.
DATE : JULY 19, 2019

P.C. :

Not on Board. At the request of Mr. Damle, taken up in the production Board.

2. Heard Mr. Damle, learned Senior Counsel for the petitioner and Mr. Vashi, learned Senior Counsel for the respondents.

3. By this Petition under Section 34 of the Arbitration and Conciliation Act, 1996 (for short 'Act'), the petitioner has challenged the award dated 01.08.2018 made by the sole Arbitrator, Hon'ble Mr. Justice A. P. Shah (retired), which is to the following effect:

“177. To summarize, the Tribunal is granting the following amounts to the claimant No.1:

Towards	Amount
Balance Amount	Rs.8,03,79,213/-
Interest on balance payment	12% per annum on Rs.8,03,79,213/- from 05.02.2016 till the date of the Award, namely, Rs.2,41,13,763/-

Loss of Profits	Rs.3 Crores
Interest on Loss of Profits	12% per annum on Rs.3 crores towards loss of profits from 23.11.2016 till the date of Award, namely, Rs.60,00,000/-.

178. The aforesaid amounts shall carry future interest at 18% from the date of the Award.

179. XI COSTS:

1. In accordance with Section 31A of the Act, the Tribunal decides the cost of Arbitration, in the Award.

2. Both Parties submitted details of their costs incurred in Arbitration proceedings.

3. Since the Claimants have succeeded with almost all of their claims, the Tribunal finds that the respondent must pay the claimants' costs of the Arbitration.

4. The Claimants have claimed the following costs:-

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|-----|----------------|--|
| (a) | Rs.12,00,000/- | Arbitrator's fees and expenses. |
| (b) | Rs.11,17,000/- | Advocates' fees. |
| (c) | Rs.6,51,125/- | Printing, Photocopying and other expenses. |

5. In the opinion of the Tribunal, the Claimants are entitled to full costs under Head (a). As far as (b) & (c) are concerned, the Tribunal is inclined to grant 75% of the said costs. Accordingly, the Claimants are entitled to costs of Rs.25,26,000/-.”

4. Mr. Damle states that Mr. Nitin Katore, Manager (Legal) of petitioner MIDC is present in the Court. Upon taking instructions from him, Mr. Damle states that balance in the Account No.20045006794 maintained with Mumbai Samachar Branch of Bank of Maharashtra, the petitioner is Rs.23,87,23.601.50/-. Upon taking instructions from him, he states that petitioner will not withdraw Rs.16 crores from this Account until further orders of this Court. Statements made by Mr. Damle, on instructions, are recorded.

5. In view thereof, list the Petition for 'admission' on 29.07.2019. Until further orders, petitioner will not withdraw Rs.16 crores from Account No.20045006794 maintained with Mumbai Samachar Branch of Bank of Maharashtra. The petitioner is permitted to operate that Account subject to retaining Rs.16 crores in that Account. In view thereof, the following Accounts stand defreezed:

a. Current Bank Account No.32451537715 in the name of MIDC with State Bank of India, Plot No.B1, MIDC area, Central Road, Andheri (East);

b. Current Bank Account No.006720110000716 in the name of MIDC with Bank of India, opp. Sangam Cinema, Shri Mathradas Vasanji Chakala, Andheri (East); and

c. Current Bank Account No.50111010000072 in the name of MIDC with Syndicate Bank at Sangam Cinema Compound, 127, Andheri Kurla Road, J. B. Nagar, Andheri (East).

6. All parties to act upon the authenticated copy of this order.

(R. G. KETKAR, J.)

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