

OCD-13

ORDER SHEET

AP/272/2023

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
(Commercial Division)

INDIA TYRE AND RUBBER COMPANY LIMITED
Versus
EUREKA CONVEYOR BELTINGS PRIVATE LIMITED

BEFORE:

The Hon'ble JUSTICE MOUSHUMI BHATTACHARYA

Date : 4th August, 2023.

Appearance:

Mr. Chayan Gupta, Adv.
Mr. Soumyajyoti Nandy, Adv.
Mr. Shoham Sanyal, Adv.
Mr. Deepankar Thakur, Adv.
...for the petitioner

The Court:- Learned counsel appearing for the petitioner, who has challenged the Award passed by the Facilitation Council under the MSMED Act of 2006, seeks to deposit the 75% as mandated under Section 19 of the MSMED Act in instalments.

The petitioner has challenged the Award passed by the MSMED Council; the petitioner is a buyer.

By an order dated 12th July, 2023, the petitioner had been directed to deposit 75% of the awarded amount coming to Rs.8,47,819/- with the Registrar, Original Side of this Court within two weeks from the date of the order. The petitioner has come to the Court without any application and after

three weeks from the date of the order asking for relaxation in reliance of a judgment passed by the Supreme Court in *Gujarat State Disaster Management vs. M/s. Aska Equipments Ltd.*, reported in (2022)1 SCC 61, wherein the Supreme Court reinforced the mandatory nature of Section 19 of the MSMED Act but held that if a buyer is facing hardship, the Court may grant leave to make the pre-deposit in instalments.

Upon considering the submissions made by counsel on behalf of the petitioner, the petitioner is allowed to make the pre-deposit in five monthly instalments amounting to Rs.1,69,564/- payable within the 7th day of each month. The payments shall be made to the Registrar, Original Side of this Court. The first of the instalments will be paid by 18th August, 2023 and the next instalments shall be paid by the 7th day of each month.

List this matter on 11th December, 2023.

The advocate-on-record of the petitioner will communicate this order on the respondents by 14th August, 2023.

(MOUSHUMI BHATTACHARYA, J.)