

Chamber Matter-III

Section XVIA

IN THE SUPREME COURT OF INDIA

IN THE CHAMBERS OF HON'BLE MR. JUSTICE ASHOK BHAN.

ARBITRATION PETITION NO. 26 OF 2005

Major Metals Ltd.

... Applicant(s)

Versus

Ampex Chemicals, S.A., DE C.V.

... Respondent(s)

(With office report)

For Applicant (s)

Ms. Niranjana Singh, Adv.

For Non-applicant (s)

O R D E R

Applicant has filed the present petition seeking appointment of arbitrator to settle the dispute with M/s. Ampex Chemicals, S.A. DE C.V., the Non-Applicant herein. Steps were taken to serve the non-applicant through registered A.D. post which as per the statement of the counsel for the applicant was not accepted by the non-applicant. Dasti process was also given. The applicant, instead of going there personally, tried to serve through E-Mail which, presumably, may have been served on the non-applicant. According to the counsel for the applicant, service of notice through E-Mail is recognizable under Section 4 of The Information Tehnology Act, 2000. Since the affidaivt of

dasti service has been filed by the applicant, still to be on the cautious side, it was directed that the non-applicant be served through publication in a newspaper which was done on 17th July, 2006. Notice was again served upon the non-

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applicant on 5th August, 2006 by E-Mail.

In spite of service through E-mail and publication, the non-applicant has not put in appearance. Under the circumstances, it is presumed that the non-applicant has been duly served and as the non-applicant is not present in spite of service, it is ordered to be proceeded ex-parte.

After hearing the counsel for the applicant, I hereby appoint Hon'ble Mr. Justice S.N. Variava, a retired Judge of this Court residing at 7-B, Rockside, 116, Walkeshwar Road, Mumbai-400 006 as the Sole Arbitrator to adjudicate the dispute between the parties. The parties are directed to appear through their counsel before the Arbitrator at his residence at Mumbai in the second week of September, 2006 after taking a prior appointment. The terms and conditions of the arbitration proceedings and the fee of the arbitrator shall be settled by the arbitrator himself. Registry is directed to send a copy of this order to Hon'ble Mr. Justice S.N. Variava.

The Arbitration Petition is disposed of accordingly.

..J.

.....

New Delhi;

(ASHOK BHAN)

August 23, 2006.