

Gujarat High Court

Jmc vs Mechtech on 10 January, 2011

Author: Akil Kureshi,&Nbsp;

Gujarat High Court Case Information System

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SCA/14629/2010 22/ 22 ORDER

IN
THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL
CIVIL APPLICATION No. 14629 of 2010

For
Approval and Signature:

HONOURABLE
MR.JUSTICE AKIL KURESHI

=====

1

Whether

Reporters of Local Papers may be allowed to see the judgment ?

2

To be

referred to the Reporter or not ?

3

Whether

their Lordships wish to see the fair copy of the judgment ?

4

Whether

this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5

Whether

it is to be circulated to the civil judge ?

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JMC
PROJECTS (INDIA) LTD & 1 - Petitioner(s)

Versus

MECHTECH
ENGINEERS & 1 - Respondent(s)

=====

Appearance
:
MR
PARESH M DAVE for
Petitioner(s) : 1 - 2.
NOTICE SERVED for Respondent(s) : 2.
MR
BS PATEL for Respondent(s) :
1,
=====

CORAM

:

HONOURABLE

MR.JUSTICE AKIL KURESHI

Date

: 10/01/2011

CAV

ORDER

1. Petitioner No.1 is a Company registered under the Companies Act. Petitioner No.2 is its Assistant Vice-President. In the present petition, the petitioners have challenged an order dated 21.10.10, passed by learned Additional District Judge, Ahmedabad Rural below Application Ex.10 in Civil Misc. Application No.31/10 by which the learned Judge directed the petitioners to deposit 75% of Rs.48,64,782/- awarded by the Arbitrator in favour of the respondents within one month from the date of the order further providing that failure to comply with the said direction will result into automatic dismissal of the application of the petitioners under section 34 of the Arbitration and Conciliation Act, 1996.

2. Petition arises in following factual background:

2.1 Petitioner No.1 is a company engaged in the business of construction and civil engineering works. Petitioner No.1 Company was awarded rehabilitation and construction work of road project by the Madhya Pradesh Road Development Corporation for which the petitioners required crushing plant with a capacity of 200 tonnes per hour. Order for setting up such a plant called Skid Mounted 200 TPH Crushing Machine was placed by the petitioners with respondent No.1 company by purchase order dated 21.2.2006.

2.2 With respect to execution of the said contract, disputes arose between the parties. It is the case of the petitioners that respondent No.1 did not perform its duties under the contract and never set up the plant as per the specifications with satisfactory performance. Respondents however deny such contentions. To resolve the issues through arbitration as contained in the arbitration clause in the agreement between the parties, the petitioners issued notice dated 11th January 2008 conveying the respondents that the petitioners are invoking arbitration clause and calling upon the respondents to resort to arbitration to settle the disputes in terms of the purchase order. Petitioners' notice dated 11.1.2008 was replied to by the respondents vide communication dated 28.4.2008 denying the allegations and asserting that in fact, the petitioners are liable to pay certain amounts to the respondents.

2.3 In the meantime, the petitioners proceeded further and appointed one Shri A.B.Desai as Sole Arbitrator to adjudicate the disputes and conveyed the said decision to the respondents under letter dated 17th March 2008.

2.4 Arbitrator Shri A.B.Desai rendered his award dated 15.12.2009 and held that petitioner No.1 company is liable to pay Rs.48,64,782/- to respondent No.1 Company along with interest at the rate of 10% per annum. Though subsequently, the Arbitrator under its communication dated 29th December 2009, ordered certain corrections to be made in his previously declared award, the effective direction for payment of Rs.48,64,782/- with interest remain unchanged.

2.5 The petitioners aggrieved by the said award approached the learned Additional District Judge, Ahmedabad Rural for setting aside the same under section 34 of the Arbitration and Conciliation Act by filing Civil Misc. Application No.31/2010.

2.6 The respondents in the said Civil Misc. Application No.31/2010, filed application Ex.10 and contended that the petitioners herein are required to deposit the awarded amount as per the Micro, Small and Medium Enterprises Development Act, 2006 (hereinafter to be referred to as 'the Act of 2006') and since such amount is not deposited, the application challenging the award under section 34 of the Arbitration and Conciliation Act, 1996 is not maintainable. They, therefore, prayed that the said Civil Misc. Application be rejected.

2.7 Petitioner No.1 filed its reply to such application Ex.10 contending that there is no obligation to make pre-deposit under the Act of 2006 since the proceedings are instituted for setting aside the arbitration award under section 34 of the Arbitration and Conciliation Act. It was further contended that section 19 of the Act of 2006 requiring the deposit of 75% of the awarded amount cannot be made applicable to proceedings arising under the Arbitration and Conciliation Act, 1996.

2.8 The learned Additional District Judge, Ahmedabad Rural however, by his impugned order dated 21st October 2010 held that the petitioners are liable to deposit 75% of the awarded amount under section 19 of the Act of 2006. They were, therefore, directed to deposit such amount within one month from the date of the order failing which, it was provided that their application under section 34 of the Arbitration and Conciliation Act would stand automatically dismissed.

3. It is this order dated 21st October 2010 passed by the learned Additional District Judge, Ahmedabad (Rural), which is under challenge in the present petition.

4. Appearing for the petitioners, learned counsel Shri Paresh Dave referring to the provisions of the Act of 2006 and in particular section 19 thereof, contended that requirement of pre-deposit under section 19 would not apply to the proceedings under the Arbitration and Conciliation Act. He submitted that admittedly, the award was not passed by the Micro and Small Enterprises Facilitation Council (hereinafter to be referred to as 'the Council') constituted under the Act of 2006, but by an Arbitrator appointed under the terms of the arbitration clause between the parties under the Arbitration and Conciliation Act, 1996. He further contended that the petitioners dispute that respondent No.1 is a micro and small enterprise. No direction for pre-deposit under section 19 of the Act of 2006, therefore, could have been issued.

5. On the other hand, learned counsel Shri B.S.Patel appearing for the respondents opposed the petition contending that requirement of pre-deposit under section of the Act of 2006 would apply

not only in case of award passed by the Council, but in all cases where for order for payment of any amount made in favour of a supplier is under challenge. He invited my attention to the provisions of the Interest on Delayed Payment to Small Scale and Ancillary Industrial Undertakings Act, 1993 (hereinafter to be referred to as "the Act of 1993") which contained similar requirement of pre-deposit and which Act has been repealed by the Act of 2006. He relied on the decision of the Apex Court in the case of Snehadeep Structures Pvt. Ltd v. MSSIDCL, 2010(2) Arb. LR 20 wherein the provisions of the Act of 1993 and the Act of 2006 came up for consideration before the Apex Court.

6. Having thus heard the learned counsel appearing for the parties and having perused the record, before advertng to the central issue of applicability of section 19 of the Act of 2006, in the present case, one objection of the petitioners to the maintainability of the application Ex.10 filed by the respondents before the Court below need to be addressed.

7. As recorded earlier, on behalf of the petitioners, it was contended that respondent No.1 Company is not a micro or small enterprises as defined under the Act of 2006. Such a contention was taken through oral submissions made before me. Ground in this respect has also been raised in the petition in the following manner :

"(iii) The provisions of the Act of 2006 were even otherwise not applicable nor attracted in the present case inasmuch as the present case involved the claims made by the petitioner company which is admittedly not micro or small or medium enterprise as contemplated under the Act of 2006; and therefore, the petitioner's claims could never have been referred to the Council under Section 18 of the Act of 2006. Whether respondent no.1 is a micro or a small or a medium enterprise or not is also a matter not established in the proceedings before respondent No.2 herein; or otherwise. The very fact that respondent no.1 lodged their claims before the Arbitrator and not by way of any reference to the Council under section 18 of the Act of 2006 also shows that respondent no.1 could not have been an enterprise to which the provisions of the Act 2006 were applicable."

Before the learned Additional District Judge, however, no such contention was taken. Respondent No.1 in the application Ex.10, in the first paragraph has stated as under:

"1.

The Opponent No.1 submits that they are registered under the Micro, Small & Medium Enterprises Development Act, 2006 and the copy of the certificate of registration is attached herewith."

These unambiguous assertions contained in application Ex.10 were not denied in the reply filed on behalf of petitioner No.1 Company. I have perused the reply. There is no denial to the averments of respondent No.1 that it is registered under the Act of 2006. It is not stated that respondent No.1 is not a micro or small enterprise. It is not contended that because of that, the Act of 2006 or requirements of section 19 thereof are not applicable. In fact, the main, perhaps the sole ground, raised in the written reply was that the award under challenge is passed by the Sole Arbitrator and the proceedings are therefore instituted under section 34 of the Arbitration and Conciliation Act

1996. The requirement of pre-deposit under section 19 of the Act of 2006 would therefore not apply. Upon perusal of the impugned order passed by the learned Judge also, no argument appears to have been advanced even orally before the said court. In view of the above, the objection of the petitioners that respondent No.1 not being a micro or small enterprise as specified in the Act of 2006 cannot stake the benefit under section 19 of the Act of 2006 is turned down since no such dispute was raised before the court below.

8. This brings me to the central question, namely, whether in the facts of the present case, requirement of pre-deposit contained in section 19 of the Act of 2006 would apply. Precise contention of the petitioners is that such a requirement would arise only in case where any decree, award or order has been made either by the Council or by any institution or center to which a reference has been made by the Council. In the present case, the award was passed neither by the Council nor on a reference made by the Council. On the other hand, case of the respondents is that section 19 of the Act of 2006 would cover not only any decree, award or order passed by the Council or on a reference made by the Council, but any decree, award or order passed by any court, institution or authority. In order to analyse the provisions contained in section 19 of the Act of 2006, certain statutory provisions need to be noted.

9. The Act of 1993 was framed "to provide for and regulate the payment of interest on delayed payments to small scale and ancillary industrial undertaking and for matters connected therewith or incidental thereto". Statement of objects and reasons for enactment of the Act of 1993 records that it was felt that prompt payments of money by buyers should be statutorily ensured and mandatory provisions for payment of interest on the outstanding money, in case of default, should be made. It was felt that the buyers, if required under law to pay interest, would refrain from withholding payments to small scale and ancillary industrial undertakings. With these objects in mind, the Act of 1993 was enacted. The Act of 1993 was further amended by the Amendment Act 23 of 1998 with the object of making the Act more effective for ensuring timely payments to small scale and ancillary industrial undertakings. Section 3 of the Act of 1993 provides for liability of buyer to make payment to the supplier (that is an ancillary industrial undertaking or a small scale industrial undertaking holding a permanent registration certificate under the Act) of any goods or services within certain time period. Section 4 provided that if no such payment is made within the time specified under section 3, notwithstanding anything contained in any agreement between the buyer and the supplier or in any law for the time being in force, the buyer shall be liable to pay interest to the supplier at one and a half time of Prime Lending Rate charged by the State Bank of India. Section 5 of the Act of 1993 provided that such interest shall be compound interest (with monthly interests). Sub-section (1) of section 6 of the Act 1993, permitted the supplier to recover such interest amount by way of a suit or other proceedings under law. Sub-section (2) of section 6 permitted any party to dispute to make a reference to Industrial Facilitation Council as constituted under section of the Act seeking arbitration or conciliation. Section 7 of the Act of 1993 pertained to requirement of pre-deposit in case of any appeal against decree, award or other order. Section 7 of the Act of 1993 reads as under :

"7.

Appeal - No appeal against any decree, award or other order shall be entertained by any Court or other authority unless the appellant (not being a supplier) has deposited with its seventy-five per cent of the amount in terms of the decree, award or, as the case may be, other order in the manner directed by such Court or, as the case may be, such authority."

10. The Act of 2006 was enacted "to provide for facilitating the promotion and development and enhancing the competitiveness of micro, small and medium enterprises and for matters connected therewith or incidental thereto". In the statement of objects and reasons, it is recorded that -

"The world over, the emphasis has now been shifted from "industries" to "enterprises". Added to this, a growing need is being felt to extend policy support for the small enterprises so that they are enabled to grow into medium ones, adopt better and higher levels of technology and achieve higher productivity to remain competitive in a fast globalisation area. Thus, as in most developed and many developing countries, it is necessary that in India too, the concerns of the entire small and medium enterprises sector are addressed and the sector is provided with a single legal framework. As of now, the medium industry or enterprise is not even defined in any law."

The Bill was, therefore, introduced aiming at facilitating the promotion and development and enhancing the competitiveness of small and medium enterprises seeking to, besides others, the following :-

(f) make provisions for ensuring timely and smooth flow of credit to small and medium enterprises to minimise the incidence of sickness among and enhancing the competitiveness of such enterprises, in accordance with the guidelines or instructions of the Reserve Bank of India;

.....

.....

(k) make further improvements in the Interest on Delayed Payments to Small Scale and Ancillary Industrial Undertakings Act, 1993 and making that enactment a part of the proposed legislation and to repeal that enactment."

Terms "micro enterprise", "small enterprise" and "supplier" have been defined in section 2(h), (m) and

(n) respectively in following manner :-

"(h) 'micro enterprise' means an enterprise classified as such under sub-clause (i) of clause (a) or sub-clause (i) of clause (b) of sub-section (1) of section 7;"

.....

"(m) 'small enterprise' means an enterprise classified as such under sub-clause (ii) of clause (a) or sub-clause(ii) of clause (b) of sub-section (1) of section 7;

(n) 'supplier' means a micro or small enterprise, which has filed a memorandum with the authority referred to in sub-section (1) of section 8, and includes--

(i) the National Small Industries Corporation, being a company, registered under the Companies Act, 1956 (1 of 1956);

(ii) the Small Industries Development Corporation of a State or a Union territory, by whatever name called, being a company registered under the Companies Act, 1956 (1 of 1956);

(iii) any company, co-operative society, trust or a body, by whatever name called, registered or constituted under any law for the time being in force and engaged in selling goods produced by micro or small enterprises and rendering services which are provided by such enterprises;"

Chapter V of the Act of 2006 deals with delayed payments to micro and small enterprises. Section 15 of the Act of 2006 casts a liability on the buyer to make payment to the supplier of goods or services within the stipulated time. Section 16 of the Act of 2006 casts a duty on the buyer to pay compound interest at three times of the bank rate notified by the Reserve Bank, if such payment is not made within the time stipulated notwithstanding any agreement or law for the time being in force. Section 18 of the Act of 2006 provides for reference to Micro and Small Enterprises Facilitation Council established under section 20 of the Act. Section 19 of the Act of 2006 requires deposit of 75% of the amount of decree, award or order pending the proceedings challenging such decree, award or order. Section 18 and 19 of the Act of 2006 read as under:

"18.

Reference to Micro and Small Enterprises Facilitation Council - (1) Notwithstanding anything contained in any other law for the time being in force, any party to a dispute may, with regard to any amount due under section 17, make a reference to the Micro and Small Enterprises Facilitation Council.

(2)

On receipt of a reference under sub-section (1), the Council shall either itself conduct conciliation in the matter or seek the assistance of any institution or centre providing alternate dispute resolution services by making a reference to such an institution or centre, for conducting conciliation and the provisions of sections 65 to 81 of the Arbitration and Conciliation Act, 1996 (26 of 1996) and shall apply to such a dispute as if the conciliation was initiated under Part III of that Act.

(3)

Where the conciliation initiated under sub-section (2) is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for arbitration or refer to it any institution or centre providing alternate dispute resolution services for such arbitration and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall then apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in sub-section (1) of section 7 of that Act.

(4) Notwithstanding anything contained in any other law for the time being in force, the Micro and Small Enterprises Facilitation Council or the centre providing alternate dispute resolution services shall have jurisdiction to act as an Arbitrator or Conciliator under this section in a dispute between the supplier located within its jurisdiction and a buyer located anywhere in India.

(5)

Every reference made under this section shall be decided within a period of ninety days from the date of making such a reference.

19. Application for setting aside decree, award or order - No application for setting aside any decree, award or other order made either by the Council itself or by any institution or centre providing alternate dispute resolution services to which a reference is made by the Council, shall be entertained by any court unless the appellant (not being the supplier) has deposited with it seventy five per cent of the amount in terms of the decree, award, or as the case may be, the other order in the manner directed by such court:

Provided that pending disposal of the application to set aside the decree, award or order, the court shall order that such percentage of the amount deposited shall be paid to the supplier, as it considers reasonable under the circumstances of the case subject to such conditions as it deems necessary to impose."

Section 23 of the Act of 2006 provides that the amount of interest payable or paid by any buyer under the provisions of the Act of 2006 shall not be admissible for deduction from the computation of income under the Income Tax Act, 1961. Section 24 of the Act of 2006, provides that the provisions of sections 15 to 23 shall have effect notwithstanding anything inconsistent in any other law for the time being in force. Under section 32 of the Act of 2006, the Act of 1993 came to be repealed.

11. Above statutory provisions are required to be interpreted in the background of the facts on hand. While I attempt to do so, I find it necessary to refer to the decision of the Apex Court in the case of Snehadeep Structures Pvt. Ltd. (supra). The said case arose under the Act of 1993. The appellant Company before the Supreme Court was a small scale industrial undertaking. Disputes between the appellant and the respondent were referred to an Arbitrator. Retired Judge of the Bombay High Court acted as the Sole Arbitrator and rendered his award directing the respondent Corporation to pay a sum of Rs.78,19,540.73 to the appellant Company. Such award was challenged by the respondent Corporation before the Bombay High Court by filing an application under section 34 of

the Arbitration and Conciliation Act. In such proceedings, the appellant company resorted to section 7 of the Act of 1993 and insisted that the Corporation must deposit 75% of the amount awarded in the award. Single Judge of the Bombay High Court dismissed the application under section 34 of the Arbitration and Conciliation Act holding that section 7 of the Act of 1993 would apply. Division Bench of the Bombay High Court relying upon the word 'appeal' used in section 7 of the Act of 1993 upheld the contention of the Corporation that application under section 34 of the Arbitration and Conciliation Act would not come within the purview of such expression. As a passing reference, it appears that the Bench also opined that the provisions of section 19 of the Act of 2006 would not apply since the said Act was promulgated in the year 2006 i.e. after the Single Judge heard the challenge in terms of section 7 of the Act of 1993. It was in this background that the Apex Court considered the following question :

"Whether the expression 'appeal' used in Section 7 of the Interest Act includes an application to set aside the arbitral award filed under Section 34 of the Arbitration Act, 1996 ?"

The Apex Court in this connection held and observed as under :

"42.

Further, if the word 'appeal' is not construed as including an application under Section 34 of the Arbitration Act, we are afraid that it would render the term 'award' redundant and the requirement of pre-deposit a total nullity with respect to all cases where a small scale industry undertaking preferred arbitral proceedings, prior to the incorporation of the reference procedure in 1998. Arbitration necessarily has to result in an award. The only way of challenging an award in a court, in accordance with Section 5 read with the opening clause of Section 34, is by filing an application under the latter section. If such challenge is not construed as an 'appeal', the requirement of pre-deposit of interest before the buyer challenging an award passed against him, becomes a total nullity. The fact that an order passed on such application/challenge under Section 34 is appealable under Section 37 is of no consequence. As the learned counsel for the appellant company rightly argued, such appeal is filed against an order passed by the court under Section 34, not against an award passed against the buyer and in favour of the small scale industry undertaking. In all cases where the small scale industry undertaking enters into arbitration proceedings to obtain payment of interest, if we limit the requirement of pre-deposit to appeal under Section 37, therefore, we will be rendering the term 'award' a nullity, which we are not empowered to do. The requirement of pre-deposit of interest is introduced as a disincentive to prevent dilatory tactics employed by the buyers against whom the small scale industry might have procured an award, just as in cases of a decree or order. Presumably, the legislative intent behind Section 7 was to target buyers, who, only with the end of pushing off the ultimate event of payment to the small scale industry undertaking, institute challenges against the award/decreed/order passed against them. Such buyers cannot be allowed to challenge arbitral awards indiscriminately, especially when the section requires pre-deposit of 75% interest even when appeal is preferred against an award, as distinguished from an order or decree."

(emphasize supplied).

Referring to section 19 of the Act of 2006, the Apex Court observed as under :

"55. The provision, no doubt, requires the deposit to be made before an application under Section 34 of the Arbitration Act is filed. However, we are not inclined to read this provision of a subsequent legislation into the provision in question. While the learned counsel for the appellant company urged that the legislature had used the terms 'appeal' and 'application' interchangeably, we are of the view that we cannot conclusively infer the same. Use of the terms 'application' appears to be in the context of the dispute resolution mechanism provided for under Section 17(sic.Section18) which essentially comprises of conciliation and arbitration, to be governed by the Arbitration Act, 1996. The legislature has intended to bring about improvements to the Interest Act as stated in the statement of Objects and Reasons of the Act of 2006. Indeed, it might have contemplated a change in the legal position while enacting the Act of 2006, but we cannot make that change apply retrospectively. In this respect, we agree with the reasoning of the High Court and with the contentions of learned counsel for the respondents as we cannot read the provision of a subsequent enactment into an Act which was repealed by the former."

12. From the above discussion, it can be seen that in the case of Snehadeep Structures Pvt. Ltd. (supra), the Apex Court was not directly dealing with the applicability of section 19 of the Act of 2006 and the case was arising only under section 7 of the Act of 1993. However, certain observations made by the Apex Court in the said judgment would be useful for addressing the present controversy also.

13. As already noted, the Act of 2006 aims at providing further improvements in the Act of 1993. With that aim in mind, the entire Chapter V containing provisions of section 15 to 25 have been made in the Act of 2006 and resultantly, the Act of 1993 has been repealed. Such provisions when perused would manifest the legislative intent of ensuring prompt payments to micro and small industries from the buyers who have been supplied the goods or rendered services. Provisions contained include setting out time limit for making such payments, payment of compound interest at a specified rate if such time limit is not adhered to. To discourage withholding of such payments and to make it less attractive, interest on such delayed payment is not made deductible from the computation of income under the Income Tax Act, 1961.

14. Section 18 of the Act of 2006, as can be seen from the perusal of the same, provides for resolution of dispute regarding such payments by Micro and Small Enterprises Facilitation Council. The Council is authorized to conduct conciliation itself or refer the same to any center providing for alternate dispute resolution services. Council also is authorized to arbitrate and render its award. It is true, as pointed by the counsel for the petitioners, that section 19 of the Act providing for pre-deposit immediately succeeds section 18 of the Act of 2006 which principally provides for conciliation or arbitration by the Micro and Small Industries Facilitation Council or any institution or center providing alternate dispute resolution to which reference may be made by the Council. However, plain language of section 19 would not permit restriction of its applicability only in case of award envisaged under section 18 of the Act. Section 19 in clear terms provides that no application for setting aside any decree, award or other order made either by Council or by any institution or center providing alternate dispute resolution services to which reference has been made by the

Council shall be entertained without deposit of 75% of the amount in terms of decree, award or order.

15. I am unable to uphold the contention of the Counsel for the petitioners that section 19 would apply only in case of award passed by the Council or any institute or center to which reference is made by the Council. If such an interpretation is accepted, the term decree in section 19 would be rendered redundant since neither the Council nor any institution or center to which reference would be made by the Council would be passing a decree. As already noted, section 18 pertains to procedure for conciliation or arbitration to be undertaken either by the Council or by any center or institution to which reference may be made by the Council.

16. In the case of Snehadeep Structures Pvt. Ltd. (supra), the Apex Court interpreted the term 'appeal' used in section 7 of the Act of 1993 to include even an application for setting aside an arbitral award under section 34 of the Arbitration and Conciliation Act observing that legislative intent behind section 7 was to target buyers, who, not only with the end of pushing off the ultimate event of payment to the small scale industry undertaking, institute challenges against the award/decreed/order/ passed against them and such buyers cannot be allowed to challenge arbitral awards indiscriminately, especially when the section requires pre-deposit of 75% interest even when the appeal is preferred against an award, as distinguished from an order or decree.

17. It may be recalled that besides other objects, the Act of 2006 was enacted to make further improvements in the Act of 1993. Keeping this view in mind, as noted earlier, provisions contained in section Chapter V have been made in the Act of 2006 to provide for detailed machinery to ensure speedy recovery of dues of suppliers of goods or services which are micro or small enterprises. Such legislative intent cannot be thwarted by reading section 19 of the Act of 2006 as to apply only in case of challenge to award or order passed either by the Council itself or by the institution or center to which reference was made by the Council. In my opinion, section 19 would apply in all cases where buyer is facing order for payment made in favour of supplier of goods or provider of services which is a micro or small enterprise when an application is made challenging such decree, award or order.

18. In the result, the petition fails and is dismissed. However, time for depositing the amount as per the impugned order shall stand extended till 31st January 2011. Notice is discharged. Interim relief is vacated.

(Akil Kureshi, J.) (vjn) Top