

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 11TH DAY OF NOVEMBER, 2020

PRESENT:

THE HON'BLE MR. JUSTICE ARAVIND KUMAR

AND

THE HON'BLE MR. JUSTICE SHIVASHANKAR AMARANNAVAR

ARBITRATION CASE NO.1 OF 2018**BETWEEN:**

SHAHI EXPORTS PVT. LTD.,
A COMPANY REGISTERED UNDER
THE PROVISIONS OF
THE COMPANIES ACT, 1956 AND
HAVING ITS REGISTERED OFFICE AT F-88,
OKHLA INDUSTRIAL AREA,
PHASE-I, NEW DELHI-110 020.

ALSO HAVING A LOCAL OFFICE AT:
#15, BELLANDUR GATE,
SARJAPURA MAIN ROAD,
BENGALURU-560 102,

REPRESENTED BY MR. G.K.HEGDE,
CHIEF FINANCIAL OFFICER.

... APPLICANT

[BY MS. LAVANYA B. ANANTH, ADVOCATE FOR
SRI. GANAPATHI HEGDE, ADVOCATE, DUA ASSOCIATES]

AND:

1. ECOTEX PTE LTD.,
A COMPANY INCORPORATED UNDER THE
PROVISIONS OF THE LAWS OF SINGAPORE AND
HAVING ITS REGISTERED OFFICE AT AZ @
PAYA LEBAR, NO.140, PAYA LEBAR ROAD,
#05-14/15, SINGAPORE-409 015.

ALSO HAVING A LOCAL OFFICE AT:
 "GAYATHRI VILLA", NO.22,
 GROUND FLOOR, 2ND MAIN ROAD,
 2ND CROSS, RMV 2ND STAGE,
 AECS LAYOUT, SANJAYNAGAR,
 BENGALURU-560 094,

REPRESENTED BY MR. RAVISHANKAR VAIDYA,
 EXECUTIVE DIRECTOR.

2. JUSTICE V.JAGANNATHAN (RETD.),
 #469, 2ND CROSS, 6TH BLOCK,
 2ND PHASE, BANASHANKARI 3RD STAGE,
 BENGALURU-560 085. ... RESPONDENTS

[BY SRI. N.N.HARISH, ADVOCATE FOR R1.]

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THIS ARBITRATION CASE IS FILED UNDER SECTION 34 OF THE ARBITRATION AND CONCILIATION ACT, 1996, PRAYING TO PASS JUDGMENT AND DECREE: A. SETTING ASIDE THE ARBITRAL AWARD DATED 06.05.2018 PASSED BY THE ARBITRAL TRIBUNAL COMPRISING OF HON'BLE JUSTICE V.JAGANNATHAN (RETD.) AND ALLOWING ALL CLAIMS OF THE APPLICANT AS PER THE STATEMENT OF DEFENCE AND COUNTER CLAIM FILED BY THE APPLICANT; B. ANY OTHER ORDER AS DEEMED APPROPRIATE BY THIS HON'BLE COURT IN THE INTEREST OF JUSTICE AND EQUITY.

THIS ARBITRATION CASE COMING ON FOR ADMISSION THROUGH VIDEO CONFERENCE, THIS DAY, **ARAVIND KUMAR J.**, MADE THE FOLLOWING:

JUDGMENT

This application under Section 34 of the Arbitration and Conciliation Act, 1996 has been preferred by the respondent,

being aggrieved by Award passed by Sole Arbitrator i.e., respondent No.2-herein, allowing the claim petition filed by claimant i.e., respondent No.1 herein in part and directing the respondent i.e., applicant herein to pay a sum of USD 185,000 [or its equivalent sum in Indian Rupees] towards balance 10% payment of the contract price with interest at the rate of 9% p.a. from 21.10.2012 till realization. Respondent i.e., applicant herein has also been directed to pay to the claimant i.e., respondent No.1 herein a sum of USD 185,000/- [or equivalent sum in Indian Rupees] towards performance Bank Guarantee amount with interest at the rate of 9% p.a. from 25.03.2015 till realization. Counter-claim has been rejected.

2. Parties to the Award have filed a joint memo stating there under that as per Settlement Agreement dated 17.10.2020, a copy of which is appended to the joint memo as document No.1, parties have settled their disputes as per the terms mentioned in the said Settlement Agreement.

3. The learned counsel appearing for respondent No.1/claimant admits execution of Settlement Agreement and also admit that pursuant to the said Settlement

Agreement, the amount payable by respondent i.e., applicant herein has been received by respondent No.1/claimant and there are no dues.

4. It is also agreed between the parties that Bank Guarantee furnished by applicant/respondent pursuant to the order dated 31.10.2018 is to be released in favour of applicant, for which Sri. N.N.Harish, learned counsel appearing for the respondent No.1/claimant does not have any objection. It is also brought to the notice of this Court that under Settlement Agreement referred to herein supra, under Clause 1(x) applicant would be entitled to seek for release of the Bank Guarantee furnished.

In that view of the matter, we proceed to pass the following:

ORDER

- i) Application stands disposed off in terms of Joint Memo dated 03.11.2020.
- ii) Bank Guarantee executed in favour of the Registrar General, High Court of

Karnataka, Bengaluru, shall stands discharged and the registry is directed to return the original Bank Guarantee furnished by the applicant to its authorized representative viz., Sri. Ananda Padmanabhan, on proper identification.

- iii) In the light of extant of Standard Operative Procedure [SOP], not permitting entry of general public or litigant/s into the Court premises, registry shall intimate by e-mail to the e-mail address of the applicant's counsel intimating the date on which the Bank Guarantee is to be collected at the copying counter and registry of this Court shall also ensure that discharged Bank Guarantee would be handed over to the aforesaid representative of the applicant, on proper identification, at the copying counter only.

- iv) Arbitration suit stands disposed off in terms of Settlement Agreement.

All pending applications stands consigned to records.

**Sd/-
JUDGE**

**Sd/-
JUDGE**

Ksm*