



AVI POLYMERS LTD.

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CIN : L27204JH1993PLC005233

27/02/2024

To:
The Department of Corporate Services
BSE Limited
P J Towers,
Dalal Street,
Mumbai -400001,

BSE Code: 539288

Dear Sir/Ma'am,

SUB: Disclosure of Events or Information under Regulation 30 of SEBI (Listing Obligations and Disclosure Requirement) Regulations, 2015.

Pursuant to Regulation 30 of SEBI (Listing Obligations and Disclosure Requirements) Regulations, 2015, please be informed that the company i.e. AVI Polymers Limited w.r.t the Application filed by the Hindustan Cables Limited in the Gandhinagar District, in the Court of D.K. Soni 3rd Addl District Judge, Gandhinagar has received an interim order.

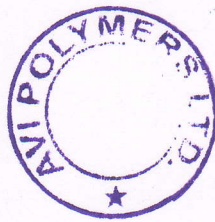
Company has received the above order on 26th February, 2024

Copy of the above interim order is enclosed herewith for your ready reference.

We request you to kindly take the same on your record.

Thanking You,
Yours Faithfully,
For, AVI Polymers Limited

Monika Shah



Monika Shah
Company Secretary and Compliance Officer
(Membership No: 37823)
Place: Ahmedabad

Order Below Exh.17

In

Civil Miscellaneous Application No.76/2022

[1] The applicant herein M/s Avi Polymers Ltd. (Original Respondent in CMA 76/2022) is a company incorporated under the provisions of Companies Act, 1956. By virtue of a Board Resolution, the applicant has authorized Ms. Monika Shah, Director (DIN: 07116152) to represent the applicant in the present matter and file this application before this Hon'ble Court.

[1.1] That, thus Hon'ble Court by the order dated 12/01/2023 directed the present Respondent (Original Applicant) Hindustan Cables Ltd. To deposit the mandatory pre-deposit of 75% (Seventy-Five Percenil of the award amount on or before 10/02/2023 and against the said order, the present Respondent (Original Applicanty has deposited amount of Rs 4,00.03,000/- (Rupees Four Crore and Three Thousand Only), on 02/02/2023 before this Court.

[1.2] The applicant submits that the applicant is a

Seller/supplier, and the present respondent was buyer. The applicant has supplied material for which the respondent has failed to make payment at the relevant point of time. The applicant, thereafter, had approached the Ld. Micro and Small Enterprises Facilitation Council (hereinafter referred to as MSEFC) at Gandhinagar claiming the said outstanding amount and the Ed. MSEFC thereafter, had passed an award in favor of the present applicant, which the Respondent has challenged before this Hon'ble Court. The Applicant is filing present application under the proviso of the Section 19 of the MSMED Act praying for release/withdrawal of the deposited amount by the respondent in favor of the present Applicant seller/supplier]. The Section 19 of the MSMED Act is reproduced herein below for your sake of brevity and kind references :

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 is a

supplier) nas deposited with seventy-five per cent of the amolunt 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.”

[1.3] The Applicant submits that the Applicant supplier has suffered irreparable financial losses because of non-payment by the respondent. That, the Applicant undertakes to abide by all the conditions as may be Imposed by this Hon ble Court if the amount deposited by the respondent is released in favor of the Applicant.

[1.4] The Applicant, therefore most humbly and respectfully prays before this Hon'ble Court as under -

- a) To admit and allow this application.
- b) To pass an order releasing the amount deposited by the

respondent in favor of Applicant ie: M/s Avi Polymers Ltd., on such terms and conditions as deemed fit and appropriate by this Hon'ble Court.

[2] Respondent has been served the notice and respondent has remained present with his learned advocate before the Court and respondent has filed his written statement at Exh.21 and Exh.22 against the present application.

[2.1] Respondent has submitted that the applicant herein objects the application of withdrawal of any amount from the amount deposited in the court. An amount of Rs. 4,00,03,300/- has been deposited in the custody of the honorable court, pursuant to the direction.

[2.2] By the present application, the Respondent, has prayed for release of pre deposited amount during pendency of the main application, in which stay has been granted. The said application for withdrawal deserves to be rejected following among other grounds.

[2.3] It is submitted that the application filed by the respondent is premature and malafide.

[2.4] In reply to para 1, 2 & 3 of the application for withdrawal it is stated that the applicant has narrated the facts which are not in dispute. The applicant further states that proviso of section-19 of the MSMED Act is reproduced herein below :

“Provided that pending disposal of 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.”

This itself suggests that amount may be released only if circumstances so warrant. The Respondent not shown any such circumstances for release of the amount.

[2.5] In reply to para 4, of the application of Respondent, contents therein are denied. It is denied that the respondent (unsecured creditor) has suffered financial losses on account of the applicant. It is submitted that the Respondent has allegedly supplied goods to the Applicant's Rupnarainpur

unit in West Bengal from April 2001 to October 2002, amounting to Rs. 72,65,190. The Applicant made partial payments, leaving a balance of Rs 22,74,897/-. The last invoice from the Respondent was dated 22.10.2002, and the same allegedly remained.

[2.6] It is submitted that the Respondent did not initiate any legal action or claim for recovery within the limitation period, which expired during 2005. Respondent had never sought any renewal or acknowledgement of the debt within limitation period thereafter and Applicant too had not acknowledged the quantum of debt. This amounted to waiver. Now after almost 22 years the Respondent is claiming the invoice amount, with interest, which is not permissible and enforceable under the law.

[2.7] The Applicant Company, is a government entity, it published a notice on 18.11.2017, inviting unsecured creditors to submit claims for a one-time settlement. It is submitted that the said public notification was not a public announcement made under Corporate Insolvency Process in terms of section 15 of Insolvency and Bankruptcy Code 2016. The said newspaper publication clearly noted that the

publication was to facilitate final closure of the dues to the unsecured creditors and should not be construed as admission of liability by the Company in whatsoever manner. However, the respondent did not submit any claim.

[2.8] The present Respondent then filed an application before the National Company Law Tribunal (NCLT) in Kolkata. The NCLT, Kolkata vide order dated 15.05.2018, rejected the interest claim made by the Respondent. It is submitted that in spite of rejection of interest claim, the respondent did not challenge the rejection order dated 15.05.2018, and consequently rejection order reached finality.

[2.9] Thereafter the present respondent pursued res judicata arbitration proceedings on interest claim, which belatedly commenced on 04.05.2021, in violation of Sec. 43 and 21 of the Arbitration and Conciliation Act 1996 read with item 137 of the Limitation Act, 1963 as the dispute for non payment arose for the goods supplied prior to 22.10.2002 and the last payment was made on 25.11.2002 and BIFR was dissolved on 01.11.2016.

[2.10] The Ld. Arbitrator by the Award dated 03.03.2022, directed the present Applicant to pay the principal sum of Rs. 22,74,897/- plus interest of Rs.5,10,61,615/-. The present applicant has challenged the arbitrator's award, inter-alia contending that the claim of the present Petitioner is time bared, adjudication of interest by arbitrator was res judicata and commencement of Arbitration proceedings was time barred in contravention to Arbitration Act, 1996 and violation of various laws.

[2.11] The applicant submits that the decretal amount under the Award consists of the principal outstanding Rs. 22,74,897/- and a huge amount toward interest for Rs. 5,10,61,615/-. It is further submitted that the applicant has challenged the arbitral award on various grounds including that of limitation on belated commencement of arbitration proceedings, arbitral proceedings was resjudicata etc. and the applicant has got the good prima faci case. Therefore the chances of succeeding in the present application are more in favor of the applicant than the respondent. Under the circumstances the interest of applicant will be adversely affected, if the huge amount is released in favour of the respondent. On the other hand, since the decretal amount is

deposited in safe custody of the honorable court, the interest of respondent stands safe-guarded till disposal of the case.

[2.12] It is further submitted that the respondent has filed a special civil application no. 17742 of 2023 before the honorable high court of Gujarat seeking relief under the scheme of Vivad Se Vishwas-II, on the same subject matter, which is pending for hearing. In view of the same, it may not be appropriate to hear and decide this application.

[2.13] Under the above circumstances, it is submitted that the respondent has filed this application with a malafied intention. It is further submitted that the Respondent is facing financial trouble and it will be difficult to recover the amount from him in future, when this applicant succeeds in the litigation.

[2.14] In view of the facts and circumstances as narrated herein above, the application of withdrawal of pre deposit amount filed by the respondent deserves to be rejected at this stage.

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[3] I have heard the learned advocates from both the sides at length. I have considered the grounds mentioned in the present application.

Before ascribing my reason, the Court has taken into consideration section-19 of the MSMED Act, 2006, which is as under -

Section-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 a supplier) has deposited with it seventy-five percent 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

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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.

[4] The Court seems that it is not required to discuss in length regarding to raise the contentions by the applicant for the present application.

[5] Looking to the above proviso, the Court can pass the order regarding to release the deposit amount and due to which, applicant will not suffer any irreparable loss because respondent is a MSME Unit and for the welfare of MSME Unit, this provision is enacted by the Parliament. At this juncture, it is pertinent to note that applicant has not raised any contentions that the respondent Unit is not a MSME Unit. The applicant has deposited Rs.4,00,03,000/- before the office of Nazir, District Court, Gandhinagar on 02.02.2023. The learned advocate for respondent is also ready for furnishing the solvency certificate or security before this Court and hence, I pass the following order in the interest of justice.

ORDER

1. The application at Exh.17 is hereby partly allowed.

2. It is ordered to release/disburse an amount of 50 percent i.e. Rs.2,00,01,500/- by the respondent out of 75 percent of the amount i.e. Rs.4,00,03,000/- deposited before the Court by furnishing a bank guarantee of Rs.2,00,01,500/- of the Nationalized Bank by the respondent before the Court within four weeks from the date of this order.

Pronounced and signed in open Court today i.e. on 17th February, 2024.

Date : 17.02.2024.
Gandhinagar.

(D.K.Soni)
3rd Additional District Judge,
Gandhinagar.
Code No.GJ00729