

IN THE SUPREME COURT OF INDIA

CIVIL APPELLATE JURISDICTION

CIVILL APPEAL NOS.3678-3679 OF 2020
(Arising out of SLP (Civil) Nos.13166-13167 of 2020)

EXPORT CREDIT GUARANTEE CORPORATION LTD. APPELLANT

VERSUS

M/S. BHARAT ENTERPRISES RESPONDENT(S)

ORDER

Leave granted.

These appeals challenge the orders dated 17.09.2020 (in First Appeal No.590 of 2020) and 14.10.2020 (in I.A. No.6029 of 2020 filed in First Appeal No.590 of 2020) passed by the National Consumer Disputes Redressal Commission, New Delhi (“the National Commission” for short).

Being aggrieved by the order dated 26.02.2020 passed by the State Consumer Disputes Redressal Commission, Delhi (“the State Commission” for short) in Complaint No.310 of 2008, the appellant preferred First Appeal in the National Commission. At the time of filing of the appeal, in terms of Section 51 of the Consumer Protection Act, 2019 (“the Act” for short), 50% of the amount in terms of the order passed by the State Commission was deposited with the

National Commission. Section 51 is quoted hereunder:

“Section 51 : Appeal to National Commission

Any person aggrieved by an order made by the State Commission in exercise of its powers conferred by sub-clause (i) or (ii) of clause (a) of sub-section (1) of section 47 may prefer an appeal against such order to the National Commission within a period of thirty days from the date of the order in such form and manner as may be prescribed:

Provided that the National Commission shall not entertain the appeal after the expiry of the said period of thirty days unless it is satisfied that there was sufficient cause for not filing it within that period:

Provided further that no appeal by a person, who is required to pay any amount in terms of an order of the State Commission, shall be entertained by the National Commission unless the appellant has deposited fifty per cent of that amount in the manner as may be prescribed.”

When the First Appeal came up for consideration before the National Commission on 17.09.2020, following order was passed:

“I.A. No.5383 of 2020 (Stay)

Subject to deposit of entire decretal amount with the State Commission within eight weeks, execution of the impugned order is hereby stayed. The amount, if deposited, shall be kept in Fixed Deposit in an nationalised bank renewable every year.”

By further order dated 14.10.2020, the National Commission recorded that its earlier order dated 17.09.2020 had not been complied with and as such, on the expiry of the period contemplated by said order dated 17.09.2020, there would not be any interim relief.

The aforesaid orders are under appeal before us.

The record shows that both the orders were passed by the National Commission without issuing notice to the other side.

Considering the fact that the matter was dealt with by the National Commission *ex parte*, we do not deem it appropriate to issue notice to the other side and have taken up the matter for disposal immediately.

Mr. Bharat Sanghal, learned Senior Advocate appearing in support of the appeals relies upon the second proviso to Section 51 of the Act and submits that according to the statutory intent, the requirement of deposit is to the extent of 50% and, therefore, the direction by the National Commission to deposit the entire decretal amount and the stipulation that without such deposit there would not be any interim relief, may not be correct.

We see force in the submission advanced by Mr. Bharat Sanghal, learned Senior Advocate.

We, therefore, allow these appeals and while setting-aside the relevant directions contained in the impugned orders, we direct that the deposit of 50% of the decretal sum by the appellant shall be considered to be sufficient compliance of the second proviso to Section 51 of the Act and the National Commission shall consider F.A. No.590 of 2020 on its own merits.

Needless to say that the order of the stay granted by the National Commission in its order dated 17.09.2020 shall enure to the advantage of the appellant during the pendency of the said First Appeal.

These appeals are allowed in the aforesaid terms. No costs.

.....J.
[UDAY UMESH LALIT]

.....J.
[VINEET SARAN]

.....J.
[S. RAVINDRA BHAT]

NEW DELHI;
NOVEMBER 16, 2020.

