

The High Court Of Madhya Pradesh**RP-1246-2019***(M/S ESSAR POWER M.P. LIMITED Vs M.P. POWER MANAGEMENT COMPANY LIMITED)***Jabalpur, Dated : 30-09-2019**

Shri Pranay Verma, learned counsel for the applicant.

Shri A. A. Barnad, learned counsel for the respondent.

Heard.

This review petition has been filed for restoration of Arbitration Case No.85/2018 (*M/s Essar Power M.P. Limited Vs. M.P. Power Management Company Limited*) which was dismissed on merit vide order dated 21.08.2019 in the absence of the counsel appearing for the applicant.

Learned counsel for the applicant has submitted that the aforesaid application was dismissed observing that the counsel for the applicant did not appear despite intimation. An affidavit to this effect in the present petition is filed by the counsel for the applicant that he would not be intimated and has submitted that he could not advance his arguments due to his non-appearance as he would not be intimated and certain relevant documents/facts which could have been brought by the applicant was not brought on record.

Learned counsel for the respondent has opposed the prayer and has submitted that no case for review of order dated 21.08.2019 passed in R.P. No.85/2018 is made out as the order is passed on merit as also taking note of the fact that the matter is still pending between the parties before the Madhyastham Adhikaran/M.P. Arbitration Tribunal.

Having considered the rival submissions and taking note of the fact that the counsel for the applicant was not present on 21.08.2019 before the Court and counsel for the respondent has not filed any document on record to show the aforesaid fact.

In view of the same, present Review Petition deserves to be allowed looking to the fact that on 19.08.2019, when the matter (A.C. No.85/2018) was listed before this Court, it was specifically directed that the matter shall be heard finally at motion hearing stage on 21.08.2019 but despite that specific order, counsel for the applicant failed to appear before this Court.

In such circumstances, Review petition is ***allowed*** and a cost of Rs.10,000/- (Rupees ten thousand) is imposed on the applicant, which shall be deposited by him within ten days from the date of receipt of certified copy of this order in the Army Central Welfare Funds with the Saving Account Number, old A/C No.020500101007721 and new A/C No.520101236373338 of Corporation Bank, Chandni Chowk, Delhi so that amount can be utilized for a National Cause, and its receipt be produced before the Registry of this Court.

Let a copy of this order be retained in the file of A.C. No.85/2018.

Subject to deposit of aforesaid cost, the order dated 21.08.2019 passed in A.C. No.85/2018 is hereby recalled and after filing its receipt before the Registry of this Court, Office shall restore ***A.C. No.85/2018*** to its original number and list A.C. No.85/2018 in the ***week commencing from 11th of November, 2019.***

Certified copy as per rules.

(SUBODH ABHYANKAR)
JUDGE

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