

IN THE COURT OF SH.RAJ KUMAR TRIPATHI:
DISTRICT JUDGE (COMMERCIAL COURT)-08
SOUTH-EAST DISTRICT, SAKET COURTS, NEW DELHI

OMP (Comm.) No.01/2022

(M/s Telecommunications Consultants India Ltd. vs. M/s Veekay Connectors)

CNR No. DLSE01-011856-2021

M/s Telecommunications Consultants India Limited
TCIL Bhawan, Greater Kailash-I,
New Delhi-110 048.

.....Petitioner

Through: Mr. Abinash Aggarwal, advocate

Versus

Veekay Connectors Pvt. Ltd.
Registered Office at:-
H-12, UPSIDC Industrial Area,
Naini, Allahabad-211 010, U.P.

.....Respondent

Through:- Mr. Jatinder Sethi and
Ms. Nikita Sethi, advocates

Date of filing of petition	:	23.12.2021
Arguments concluded on	:	19.09.2024
Date of Judgment	:	26.10.2024

JUDGMENT

1.1 By way of present petition filed u/s 34 of The Arbitration and Conciliation Act, 1996 (in short 'The Act'), petitioner seeks to challenge certain part(s) of arbitral award dated 06.05.2021 passed by learned Sole Arbitrator in arbitration case No. ARB/SKV-2015/14 titled as "Veekay Connectors Pvt. Ltd. vs. Telecommunications Consultants India Limited". The part(s) of the award which are sought to be challenged by petitioner (hereinafter to be referred as 'impugned part(s) of the award') are

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as under:-

- i. Award under para 8.1.3(III) with the heading Liquidated Damages Deducted, where under the arbitral tribunal had held that the deduction by the petitioner of an amount of Rs.10,68,987/- towards liquidated damages is not justified and the amount deducted is awarded in favour of respondent.
- ii. Award under paragraph 8.5 with the heading Claim No.6, where under a sum of Rs.2,50,000/- is awarded to respondent.
- iii. Award under paragraph 8.6.3 (ii), where under the learned Arbitral Tribunal has awarded pre-suit, *pendente lite* and future interest. It is submitted that since no amount is payable to the respondent, the question of payment of any interest does not arise.

Brief facts of petitioner's case

2.1 Petitioner, a wholly owned Government of India company engaged in the business of providing Telecommunication & Information Technology services, was set up by the Ministry of Communications, Government of India, as a Public Limited Company in 1978 for providing Indian telecom expertise in all fields of Telecom, Civil and IT to more than fifty three developing countries around the world.

2.2 It is submitted that the project in question was for spreading the digital revolution in Andhra Pradesh and was part(s) of Government of Andhra Pradesh prestigious flagship Handri Neeva and Gandikota Lift Irrigation schemes to benefit million farmers in the state. The Government of Andhra Pradesh authorized/selected M/s Andhra Pradesh Transco (APTRANSCO) for implementing this project. There is no specific vendor approvals procedure followed in APTRANSCO and if the product

offered by the vendor complies with the tender requirements, the vendor can supply the products as per their procedural policy.

2.3 APTRANSCO called for a tender for supply and installation of ADSS (All Dielectric Self Supporting) Infrastructure. Petitioner in turn floated the tender for supply, erection and commissioning of 24F ADSS Type Optical Fiber Cable along with associated accessories on 21.12.2010 to any qualified EPC contractor and later opened the tender to individual manufacturers also, in respect of their manufactured BOQ items other than EPC through amendment against which respondent participated being a supplier of hardware and optical accessories.

2.4 Pursuant thereto, an LOI was placed on the respondent on 21.02.2011. The same was followed by the purchase order dated 23.02.2011. The said purchase order was amended on 28.02.2011 only with regard to the delivery schedule and the delivery schedule was changed from 6 weeks to 2 ½ months from the date of LOI and all of the terms and conditions remained unchanged. The purchase order was once again amended with respect to the issuance of Form C and E1. The total value of the purchase order was Rs.77,60,408/- all inclusive, including excise duty, CST/Entry tax, other levies and freight transit insurance charges covering the storage, at site for 45 days.

2.5 Respondent gave 1st inspection call only on 27.04.2011 i.e. after 65 days and that too only for very less quantity of 75 numbers of suspension and tension sets, and other items against the total quantity of 894 numbers for which the delivery period was 2 ½ months. As per the tender terms, respondent was required to give 30 days advance intimation for

such inspection. APTRANSCO confirmed the inspection for 02.05.2011. However, in the meantime, respondent requested for amendment of quantity, which was taken up for approval with APTRANSCO. The inspection was finally done on 19.05.2011, and the same was followed by test reports submitted by petitioner after some time. No person from petitioner side was involved for factory inspection and only APTRANSCO officials were present for the same.

2.6 Petitioner submits that delivery instruction for the items which comprised less than half of the contracted quantity was given to the respondent on 02.06.2011, immediately upon receipt of the same from APTRANSCO. LR date was 06.06.2011, and the material finally arrived at APTRANSCO store on 15.06.2011. Subsequently, Form-13 was issued on 19.07.2011 for the said quantity.

2.7 Respondent supplied the contracted material in different combination of category of items in three separate lots although the same was not mentioned in the Purchase Order and this resulted into delayed execution, repeated activities like FAT and also took a lot of time in fulfillment of APTRANSCO procurement policy which led to exorbitant delay in the supplies. Respondent completed the FHP for final balance quantity on 29.06.2011 and MIDC was issued by APTRANSCO for 11.07.2011. However, respondent as per Form-13 and terms of the agreement, supplied the same in two parts i.e. 1st part on 19.07.2011 and the 2nd part on 03.10.2011. Therefore, the last supply was made after more than two months of FAT despite the fact that FAT is invited only once when the vendor is ready with

hundred percent quantity. Total supply was completed only on 03.10.2011 i.e. after a delay of over twenty two weeks.

2.8 Upon receipt of materials and after all the required documents in terms of the contract were furnished by the respondent, payments were released to respondent from APTRANSCO. The invoices raised by respondent were wrong, incorrect and not in accordance with the agreed price under the purchase order. The total value of purchase order was Rs.77,60,408/-. However, the invoices raised by the respondent amounted to Rs.85,42,467.85. No amount beyond the value of the purchase order was payable to respondent.

2.9 As per petitioner, a sum of Rs.61,00,466/-had already been paid to respondent. Supplies amounting to Rs.5,37,315/- for turnbuckle were not made by the respondent. Therefore, the said sum was deductible from the value of the purchase order. Another sum of Rs.53,640/-was also admittedly deductible towards the rectification charges. Further, a sum of Rs.10,68,987/- had been deducted from the payments due to the petitioner towards liquidated damages imposed for the delay in supplies. It is admitted position that respondent supplied the material in three lots instead of one lot and even the lots supplied by the respondent did not have all the materials required to install the same at site in a single go. The supplies were made by the respondent, as under:

- a. The 1st lot was supplied on 19.07.2011 with a delay of 10 weeks.
- b. The 2nd lot was supplied on 08.08.2011 with the delay of 13 weeks.
- c. The 3rd and the final lot was supplied on 03.10.2021 with a

delay of 22 weeks.

2.10 Thus, respondent supplied the materials after the delay of 22 weeks, for which the aforesaid liquidated damages had been levied by APTRANSCO. Consequently, the same were levied on respondent and were thus, deducted from the amount payable to respondent.

2.11 Petitioner avers that on difficulty being faced in the use of Tower clamps supplied by respondent, the same was brought to the knowledge of respondent, who suggested that clamps may be cut at flanges and expenses upto Rs.60.00 per clamp may be settled against their account. In addition, all the "C" forms were also issued to respondent and on the contrary it is the respondent, who has failed to furnish E-1 Forms for a sum of Rs.1,44,462/-.

2.12 That in the meantime, an add-on purchase order dated 09.07.2012, was placed in terms of the contract/original purchase order and respondent was required to submit the bank guarantee in accordance with the same. Respondent was requested to honor the add-on purchase order, failing which the consequences as per the contract would have naturally flowed. However, instead of honoring the said add-on purchase order, respondent filed a writ petition bearing WP(C) No.4927/2012 before the Hon'ble Delhi High Court, wherein an interim order dated 14.08.2012 was passed against invocation of the bank guarantee.

2.13 Thereafter, upon the directions of Hon'ble Delhi High Court, a meeting between the parties was held on 17.09.2012 for exploring the possibility of an amicable resolution. However, no

such resolution was reached between the parties. Subsequently, on 17.07.2014, respondent withdrew the abovesaid writ petition with liberty to move for recovery of sums allegedly due to it in arbitration, which liberty was granted.

2.14 Later on, respondent vide its notice dated 27.11.2014 invoked arbitration clause between the parties, pursuant to which, on 15.12.2014, Mr. Narendra Jain was appointed as a sole arbitrator by the CMD of the petitioner company. However, the said arbitrator resigned on 07.01.2015. Therefore, another sole arbitrator namely Smt. Neelam Gupta was appointed vide letter dated 10.04.2015. Smt. Neelam Gupta entered upon reference on 17.04.2015. However, she also withdrew from reference on 02.07.2015. Thereafter, the present arbitrator namely Mr. S.K. Verma, who has passed the impugned award, was appointed as the Sole Arbitrator, by the Chairman & Managing Director of petitioner company, vide his letter dated 31.07.2015.

2.15 The learned Sole Arbitrator entered upon reference on 11.08.2015. Respondent filed statement of claims. Petitioner filed its statement of defence. On completion of pleadings, respondent examined its Managing Director Mr. Purendu Mittal in support of its claim. On the other hand, petitioner in its defence examined its Senior Manager-Finance Ms. Alka Dawar. Arbitral award dated 06.05.2021 was passed on conclusion of proceedings in the petition.

2.16 Aggrieved by impugned part(s) of the award, petitioner has filed the present petition.

3.1 I have heard the submissions advanced by learned

counsel for parties.

4.1 Learned counsel for petitioner submitted that section 12 (5) r/w Seventh Schedule of The Act makes the learned Arbitrator ineligible to pass an award in absence of any express written waiver agreement. Since the impugned award was passed by the learned Sole Arbitrator, who was an employee of the petitioner, the same is liable to be set aside as he was *de facto* unable to pass the impugned award. In support of his submissions, he relied upon *Perkins Eastman vs. HSCC India Ltd.* (2020) 20 SCC 760 and *Bharat Broadband Network Ltd. vs. United Telecom Ltd.* (2019) 5 SCC 755.

4.2 He further submitted that application of section 12 (5) of The Act is retrospective for appointment of Arbitrator and for continuance of arbitration proceedings by such Arbitrator. In support of his submissions, he placed reliance upon *Ellora Paper Mills Limited vs. State of Madhya Pradesh* (2022) 3 SCC 1; *Jaipur Zila Dugdh Utpadak Sahkari Sangh Limited vs. Ajay Sales & Suppliers* 2021 SCC OnLine SC 730; *Om 360 Degrees Advertising & Entertainment (P) Ltd. vs. DMRC Ltd.* 2023 SCC OnLine Del 6006 and *Progressive Infotech (P) Ltd. vs. Ircon International Ltd.* 2023 SCC OnLine Del 550.

5.1 *Per contra*, learned counsel for respondent submitted that petitioner's challenge to the award, solely based on section 12 (5) of The Act, is erroneous and fallible in the eyes of law as in the present case, the provision u/s 12 (5) of The Act was inserted by Arbitration and Conciliation (Amendment) Act, 2015, which came into force on 23.10.2015 and applies prospectively only. The arbitration proceedings in the present dispute as per section

21 of The Act commenced on 27.11.2014 i.e. prior to 2015 amendment. Since, the amendment is prospective in nature, the said ground of challenge u/s 12 (5) of The Act could have been raised only in relation to arbitration proceedings in which the notice invoking arbitration was issued post 2015 Amendment Act. He further submitted that since in the present dispute, notice invoking arbitration was issued prior to 2015, therefore, the pre 2015 unamended Act shall apply to the facts of the present case. In support of his submissions, counsel for petitioner placed reliance upon *Shree Vishnu Constructions vs. Engineer-in-Chief, Military Engineering Service & Others (2023) 8 SCC 329*

6.1 I have considered the rival submissions of both the parties and perused the material on record.

6.2 Undisputedly, a notice invoking arbitration was issued by respondent on 27.11.2014. Thus, the arbitral proceedings as per section 21 of the Act commenced on 27.11.2014. Pursuant thereto, the Chairman and Managing Director of petitioner vide letter dated 15.12.2014 nominated Sh.Narendra Jain as the Sole Arbitrator as per Clause 22 of Purchase Order dated 23.02.2011. On the objections of respondent, Mr. Jain resigned from the arbitration on 06.04.2015. Thereafter, petitioner appointed Smt. Neelam Gupta as the Sole Arbitrator in place of Mr. Jain, who also subsequently resigned. In place of Smt. Gupta, Mr. S.K. Verma, the Sole Arbitrator was appointed to adjudicate the dispute between the parties vide letter dated 31.07.2015.

6.3 On culmination of arbitral proceedings, arbitral award dated 06.05.2021 was passed.

6.4 It is noted in para no.6.6 of the arbitral award dated 06.05.2021 that the parties confirmed that they have been treated with equality and have been given full opportunity to present their respective case.

6.5 It is matter of fact that during entire arbitration proceedings, petitioner at no stage raised any objection regarding the eligibility of the Arbitrator. Petitioner filed the instant petition u/s 34 of The Arbitration and Conciliation Act, 1996 challenging part of the award on 23.12.2021, in which also petitioner has not taken the ground of ineligibility of the Arbitrator as the ground for challenging the award. The objection regarding the eligibility of Arbitrator for challenging the award has been taken by petitioner for the first time during the course of hearing in the petition.

6.6 In the case in hand, the arbitration proceedings as per section 21 of The Act commenced on 27.11.2014 i.e. the date when notice for invocation of arbitration clause and appointment of Arbitrator was issued by respondent. Thus, the arbitration proceedings commenced in the case prior to enforcement of Arbitration and Conciliation (Amendment) Act, 2015. Section 12 (5) of The Act was inserted by the Arbitration and Conciliation (Amendment) Act, 2015 which came into force on 23.10.2015. Since the arbitration proceedings in the present case began prior to coming into force of 2015 Amendment Act, therefore, section 12(5) of The Act is not applicable to the present proceedings.

6.7 In the case of *Shree Vishnu Constructions (supra)*, Hon'ble Supreme Court considered the applicability of 2015 Amendment Act in the backdrop of notice invoking arbitration having been issued prior to 2015 Amendment Act. It was held by

Hon'ble Apex Court that the 2015 Amendment Act, which came into force w.e.f. 23.10.2015, shall not apply to the arbitral proceeding which commenced in accordance with section 21 of the Act before coming into force of the 2015 Amendment Act, unless parties otherwise agree.

6.8 Thus, it is clear that the amendment brought in 2015 in The Act is prospective in nature. As notice invoking arbitration, in the present case was issued prior to 23rd October, 2015, the pre-2015 unamended Act shall apply to the facts of the case.

6.9 Section 4 of The Act provides that a party, who proceeds with the arbitration without stating his objection to non-compliance of any provision of the Act, without any undue delay shall be deemed to have waived his right to object. Applying section 4 of the Act to the facts of the present case, the conduct of petitioner amounts to waiver. Firstly, petitioner did not raise any objection regarding Arbitrator's ineligibility at any stage during the arbitration proceedings. Secondly, during concluding hearing of the arbitration, both the parties confirmed that they have been treated with equality and have been given full opportunity to present their respective case. Thirdly, petitioner did not raise the ground of ineligibility of Arbitrator in the petition. The objection was taken for the first time during final hearing in the matter. In the aforesaid circumstances, the conduct of petitioner amounts to a deemed waiver u/s 4 of The Act and petitioner cannot be permitted to agitate the said ground at this stage.

6.10 Hon'ble High Court of Delhi in the case of *Allied Dynamic Joint Venture vs. Ircon International Ltd.* OMP

(COMM) No.451/2016 decided on 10.01.2024, while dealing with the argument of section 12 (5) of The Act raised by petitioner in that case held that it would be impermissible for a petitioner to wait for the award to be rendered and thereafter approach the court with the allegation of bias against the Arbitrator, if at no point during the arbitration no adjudication was sought on this aspect nor any change of Arbitrator was sought. The court emphasised that the petitioner having participated in the arbitration proceedings fully and final award in terms of section 31 of The Act having been rendered, the allegation of bias cannot be agitated at this stage since such conduct of petitioner would constitute a waiver under section 4 of The Act.

6.11 Another argument of petitioner is that the Arbitrator being its ex-employee was ineligible to be appointed as Arbitrator and pass the arbitral award in terms of section 12 (5) r/w seventh schedule of The Act. I have already held in the foregoing paragraphs that section 12 (5) of The Act is not applicable in the facts and circumstances of the present case. Even otherwise, there is absolutely no bar under 12 (5) of The Act for appointment of a retired employee to act as an Arbitrator.

6.12 In the case of *Central Organization for Railway Electrification vs. ECI-SPIC-SMO-MCML (JV)* (2020) 14 SCC 712, Hon'ble Supreme Court held that it cannot be said that simply because the person is a retired officer, he would be treated ineligible to act as an Arbitrator. It emphasised that the appointment of a retired employee of a party to the agreement cannot be assailed on the ground that he is a retired/former

employee of one of the parties to the agreement. There is absolutely no bar under section 12 (5) of The Act for appointment of a retired employee to act as an Arbitrator.

6.13 Further, in the case of *Aravali Power Co. (P) Ltd. v. Era Infra Engg. Ltd.* (2017) 15 SCC 32, Hon'ble Apex Court has laid down that in cases governed by The Act as it stood prior to the 2015 Amendment Act came into force, the fact that the Arbitrator is an employee of the parties is not *ipso facto* a ground to raise a presumption of bias or lack of independence on his part.

6.14 In the light of aforesaid reasons and discussions, I am of the view that petitioner's argument that since the Arbitrator was its ex-employee, therefore, he was ineligible to act as an Arbitrator, in terms of section 12 (5) of The Act and the arbitral award dated 06.05.2021 passed by him is vitiated has no merit. The said argument is rejected accordingly.

7.1 On merits, learned counsel for petitioner submitted that learned Arbitrator categorically came to the finding that delay is attributable to both parties and as such he could not have acted beyond the terms of the contract and directing for refund despite petitioner being entitled to deduct liquidated damages (as per Clause 15). Moreover, no claims towards Form-C as well as litigation expenses and *pendente lite* and future interest could have been awarded by learned Arbitrator. He further submitted that the findings/conclusions by the learned Sole Arbitrator are not only contrary to the specific terms and conditions of the contract but are also beyond the pleadings of the parties and are also contrary to the well established principles of law as laid down by catena of judgments passed by Hon'ble Apex Court as

well as by Hon'ble Delhi High Court. He further argued that the impugned award is not only contrary to the basic principles of law and justice but also contrary to the terms of the contract between the parties apart from being patently illegal and being against fundamental policy and public policy of India. He prayed to set aside the impugned parts of the award.

8.1 *Per contra*, learned counsel for respondent submitted that as per settled law, the scope of section 34 of The Act is narrow and the present petition does not fall within such narrow scope rendering it not maintainable. Referring to Clause 15 of the Contract, he submitted that the Contract empowers petitioner to levy LD upto 10% but levy cannot be made without first arriving at a finding that supplies were delayed by supplier. Annexure-1 (at page 9 of written submissions of respondent) shows that there was no delay by the supplier at all.

8.2 He further submitted that the learned Arbitrator found in evidence that penalty calculation sheets were never sent to VCPL and since LD had to be first levied for recovery, which was not done, hence LD is not recoverable. He further submitted that there is evidence on record that petitioner delayed intimating specifications of cable diameter by eleven days, first inspection by forty four days and second inspection by thirty nine days. Thus, total delay by petitioner is of ninety four days out of contract, where supply was to be made in seventy five days. Thus, the Appellate Tribunal found that the parties by their conduct waived stipulated delivery period. He argued that the contract between parties does not override section 55 of The Indian Contract Act. Therefore, so cause was pre-requisite before levy

of LD.

8.3 To the contention of petitioner that while invoices were raised amounting to Rs.85,42,476.85 by respondent, no amount beyond the value of purchase order was payable. Further, a sum of Rs.10,68,987/- had been deducted from the payments to respondent towards LD. LD levied by APTRANSCO for the delay in supplies by petitioner. Moreover, respondent failed to furnish E-1 Forms for a sum of Rs.14,04,462/-. Learned counsel for respondent submitted that the aforesaid plea of petitioner is beyond comprehension as the Arbitrator has rejected the claim of respondent beyond purchase order value, which decision has not been challenged by it.

8.4 Referring to Clause 2 of the Contract and particularly Clause 56, it was submitted that the LD could not have been passed on to respondent and it was not a back to back contract. In reference to the contention of petitioner that the Arbitrator could not have decided a case on grounds that have not been pleaded or raised by the parties during proceedings; any decision that goes beyond the scope of the pleadings violates principles of natural justice and it subject to being set aside and no party can be taken by surprise in litigation and courts cannot grant relief on a ground that was not part of the pleadings, it was submitted that the said contention and submission of petitioner is factually incorrect. Petitioner for the first time raised the plea of having levied LD on respondent in its reply to the statement of claim, hence respondent refuted the same in its rejoinder. The Arbitrator noted the said pleading in the arbitral award. Moreover, petitioner has never taken the plea of award being vitiated on ground of section 12 (5)

of The Act in its pleadings. Thus per its own showing, petitioner cannot press the said ground before the court now at the stage of arguments.

8.5 To the objection of petitioner i.e. in the event, there is delay on the part of both the parties then delays are to be apportioned and damages imposed accordingly. It was submitted by learned counsel for respondent that Annexure-1 (Time Lines of Performance) at page 9 of written submissions shows that there was no delay by the supplier at all. He submitted that the petition filed by petitioner has no merit and same may be dismissed accordingly.

9.1 Considered the rival submissions of both the parties and perused the material on record.

9.2 In respect of liquidated damages deducted, learned Arbitrator has held that the deduction of an amount of Rs.10,68,987/- towards liquidated damages by petitioner was not justified and the amount deducted was awarded in favour of respondent. The said finding of learned Arbitrator is based on interpretation of Agreement between the parties, the evidence led by parties and material presented before him. The learned Arbitrator, who was Ex-Executive Director of petitioner, has analyzed the claim of petitioner on the basis of clauses of the Agreement, the material presented before him and given sound reasoning for rejection of the same. This court is not sitting in appeal over the findings of the learned Arbitrator. The reasoning for rejection of claim given by learned Arbitrator is a plausible view and same does not call for any interference by this court.

9.3 ***In NHAI v. ITD Cementation India Ltd. (2015) 14***

SCC, the court held:

“25. It is thus well settled that construction of the terms of a contract is primarily for an arbitrator to decide. He is entitled to take the view which he holds to be the correct one after considering the material before him and after interpreting the provisions of the contract. The court while considering challenge to an arbitral award does not sit in appeal over the findings and decisions unless the arbitrator construes the contract in such a way that no fair-minded or reasonable person could do.”

9.4 Learned Arbitrator has awarded pre-lit, *pendente lite* and future interest in favour of respondent on the alleged outstanding payment relying upon judgment passed by Hon’ble Supreme Court on 04.07.2017 in ***Assam State Electricity Board v. Buildworth Pvt. Ltd.*** The Arbitrator has power to award interest in terms of section 31 (7) (a) and (b) of The Arbitration and Conciliation Act,1996. The aforesaid findings arrived by learned Arbitrator is based on the evidence led by the parties regarding levy of LD on the respondent and correct appreciation of law for awarding interest.

9.5 It is well settled that the Arbitrator is the ultimate master of the quality and quantity of evidence. Thus, a possible/plausible view of the Arbitrator even if based on little evidence or that which does not measure up in quality to a trained mind would not be held to be invalid (relied upon para 33 ***Associate Builders v. Delhi Development Authority*** (2015) 3 SCC)

9.6 In the case of ***Delhi Skills Mission Society v. Samuel Foundation Charitable India Trust*** FAO (COMM) No.73/2024 decided on 30.07.2024, Hon’ble High Court of Delhi observed as under:-

“It is settled law that the scope of interference u/s 34 of The Act is limited to the grounds as set out in sub-sections (2) and (2A) of section 34 of The Act. The court is not required to re-appreciate the evidence, adjudicate the disputes and supplant its opinion in place of that of The Arbitral Tribunal. The court is merely to examine whether the impugned award is vitiated on the ground of patent illegality or is vulnerable on any of the grounds as set out in section 34 (2) of The Act. The Arbitral Tribunal is the final adjudicator of all questions. Unless the Arbitral Tribunal’s decision is found to be perverse and not a plausible view, the same would warrant no interference.”

9.7 It is also well settled that construction of a contract falls within the jurisdiction of an Arbitrator.

9.8 In the case in hand, the impugned award is based on appreciation of facts and evidence and interpretation of contract between the parties. A sound reasoning for arriving at the decision has been given by learned Arbitrator. The learned Arbitrator has examined the facts, appreciated evidence and interpreted the contract between the parties in right perspective by arriving at a decision that the contract was not back to back and LD was not leviable. I do not find any patent illegality in the impugned award. The scope of interference in the present proceedings are very limited. Accordingly, this court cannot sit in appeal and re-appreciate the evidence led by the parties. The view taken by learned Arbitrator is a plausible view which is based on correct appreciation of facts and evidence and same does not call for any interference.

9.9 For the foregoing reasons and discussions, this court does not find any reason to set aside part(s) of the impugned award as prayed in the petition. Accordingly, the petition filed by

petitioner is dismissed.

10.1 File be consigned to Record Room.

Announced in the open court (RAJ KUMAR TRIPATHI)
Dated: 26.10.10.2024 District Judge (Commercial Court)-08,
South-East District, Saket Courts,
New Delhi