

* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **FAO(OS) NO. 397/2007**

Date of Decision : September 09, 2008

INTERSTATE EQUIPMENT INDIA
P.LTD.

Through : Appellant
 Mr. H.L. Tiku, Senior Advocate,
 with Ms. Yashmeet Kaur,
 Advocate.

versus

BHARAT ALUMINIUM CO. LTD. Respondent

Through : Mr. Davinder Singh, Senior
 Advocate with Mr. Saurabh
 Tiwari, Advocate.

CORAM:

HON'BLE MR. JUSTICE MUKUL MUDGAL

HON'BLE MR. JUSTICE MANMOHAN

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| 1. Whether the Reporters of local papers may be allowed to see the judgment? | No. |
| 2. To be referred to the Reporter or not? | No. |
| 3. Whether the judgment should be reported in the Digest? | Yes. |

J U D G M E N T
09-09-2008

MANMOHAN, J. (ORAL)

1. The present appeal arises out of a judgment and order dated 27th July, 2007 whereby the learned Single Judge has dismissed the Appellant's petition filed under Section 20 of the Arbitration Act, 1940.

2. The learned Single Judge in the impugned order has concluded that this Court had no territorial jurisdiction to entertain and try the said petition.

The learned Single Judge has while rendering a finding on issue no.4 concluded that there were no disputes required to be referred to arbitration.

3. Mr. H.L. Tikku, learned Senior Counsel for Appellant submitted that the contract only stipulates a venue for arbitration but does not stipulate the territorial jurisdiction of the court. Mr. Davinder Singh, learned Senior Advocate for Respondent disputes the same.

4. We find that the preface to the invitation to Tender clearly stipulates that the notice inviting tenders, instructions to tenderers and the General Conditions of Contract, shall form a part of the Tender/Contract and shall be applicable to all contracts finalized for any new project taken up by the respondent-company hereafter.

5. Clause 9.2.3 of the General Conditions of Contract while deals with arbitration, stipulates as under: -

“The venue of Arbitration proceedings shall be the Administrative Officers of the Korba/Ratnagiri Projects.”

6. The Agreement for works, which is Annexure K to the General Conditions of Contract, stipulates as under: -

“All disputes arising out of or in any way connected with this agreement shall be deemed to have arisen in Bilaspur/Ratnagiri and only the Courts in Bilaspur/Ratnagiri shall have jurisdiction to determine the same.”

7. In view of the aforesaid clauses, we are of the view that this Court has

no territorial jurisdiction to entertain the appellant's Section 20 petition. The said finding of the learned Single Judge is affirmed. However, we are of the opinion that after rendering the finding, the learned Single Judge should have returned the petition to the appellant for re-filing in an appropriate Court having territorial jurisdiction.

8. Further we are of the view, that since this Court has no territorial jurisdiction, the learned Single Judge should not have rendered any finding with regard to other issues. In fact, the other findings of learned Single Judge are not sustainable and are set aside.

9. Consequently, the Section 20 petition filed by the appellant is directed to be returned to the appellant with liberty to the appellant to re-file it in an appropriate Court having territorial jurisdiction within six weeks from today.

10. With the above observations, the present appeal stands disposed of, but with no order as to costs.

**MANMOHAN
(JUDGE)**

**MUKUL MUDGAL
(JUDGE)**

SEPTEMBER 09, 2008
sk/rn