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IN THE HIGH COURT OF DELHI AT NEW DELHI

Date of Reserve: May 05, 2009

Date of Order: May 11, 2009

+ OMP No.388/2008

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11.05.2009

M/S. BELLISS INDIA LTD.

..... Petitioner

Through: Mr. A. Datta with Mr. Atish Ghosh &
Mr. Niloy Dsgupta, Adv.

Versus

UP STATE SUGAR CORPORATION LRD & ANR. Respondents

Through: Mr. Rakesh Upadhyaya, Adv.

JUSTICE SHIV NARAYAN DHINGRA

1. Whether reporters of local papers may be allowed to see the judgment?
2. To be referred to the reporter or not?
3. Whether judgment should be reported in Digest?

JUDGMENT

1. The petitioner has filed this petition under Section 34 in the form of objections against an order of learned Arbitrator dated 8th February, 2008.

2. The respondent in its response to the objection petition has taken an objection about the territorial jurisdiction of this Court in view of the exclusion clause contained in the agreement between the parties.

3. A perusal of the terms of contract between the parties would show that the contract contained following clause:-

“24. The High Court Judicature at Allahabad and other courts subordinate thereto situated at Lucknow Bench, Lucknow (UP) shall have jurisdiction with exclusion of all other Courts”.

4. A perusal of this clause would show that only the High Court of judicature at Allahabad and the Courts subordinate thereto will have jurisdiction with the exclusion of all other Courts. In view of this clause it is argued by the respondent that this Court had no jurisdiction.

5. Counsel for the petitioner submitted that the clause was not clear and the place where work was executed by the petitioner namely Bulandshahr did not fall under Lucknow Bench of Allahabad High Court. Therefore, this clause would not apply. The other argument is that no part of cause of action had taken place in UP and therefore the Exclusion Clause would not apply.

6. Both these arguments are contrary to record. The agreement between the parties shows that supply order was placed on the petitioner by the respondent from Lucknow. The supplies were to be made within UP at Bulandshahr. The quality, design and features of equipment and instrument were to be inspected after supply at Bulandshahr. Thus, the part of cause of action had arisen within State of UP and parties had a right by consent to exclude the

jurisdiction of Delhi High Court and provide that only the Courts subordinate to Allahabad high Court or Lucknow Bench of Allahabad High Court would have jurisdiction. Merely because 'Exclusion Clause' is not happily worded would not mean that the clause would have no effect. I therefore consider this Petition cannot be entertained by this Court for want of territorial jurisdiction and is liable to be returned. Registry is directed to return the petition to the petitioner to be filed before the Court of appropriate jurisdiction.

May 11, 2009
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SHIV NARAYAN DHINGRA J.