

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

+ **W.P.(C) 11952/2009**

M/S SUDHIR GENSETS LTD.

..... Petitioner

Through

Mr. Anurag Kumar Agarwal, Adv.

versus

UNION OF INDIA AND ANR.

..... Respondent

Through

Mr. B.V. Niren, CGSC.

Mr. Ravi Sikri, Advocate.

CORAM:

HON'BLE MR. JUSTICE SANJIV KHANNA

ORDER

% 04.11.2009

The respondent, MTNL had raised telephone bills in respect of telephone Nos. 681131 and 6812941 as per the details given below:-

“Telephone No.	Bill dated	Amount
6811311	9.6.2000	138524+2000
	9.7.2000	119558+2000
6812941	9.6.2000	271506+2000
	9.7.2000	125398+2000”

2. The petitioner by his letter dated 5th July, 2000, disputed the bill dated 9th June, 2000 for Rs. 1,31,677/- in respect of telephone No.6811311. The petitioner did not dispute the other three bills including the two bills of telephone No. 6812941.

3. The respondent, MTNL had examined the complaint made by the petitioner and by their letter dated 30th July, 2000, informed the petitioner that no fault was observed in respect of the functioning of the said telephone and the petitioner was directed to make payment of the said bill.

4. Thereafter, notices were issued to the petitioner to make payment of the bills. The petitioner wrote letter dated 23rd May, 2000, stating that they wanted to settle the matter and pay the telephone bills. Subsequently, by the letter dated 11th June, 2000, they agreed to make payment of the bill amounts in installments of Rs. 25,000/- per month. The

petitioner deposited some of the installments amounting to Rs. 2, 06000/-. The last payment was made on 4th January, 2003. Thereafter, the petitioner stopped depositing further payments and when the respondent, MTNL took steps to disconnect other telephones belonging to the petitioner or their officers, the petitioner invoked arbitration proceedings.

5. Learned arbitrator in the impugned order dated 15.7.2009 has examined the contentions raised by the petitioner and the documents on record, specially, the conduct of the petitioner. Learned Arbitrator has referred to the letter dated 5th July, 2000 and has observed that the objection was only with respect to one telephone number and one bill and no complaints were made in respect of the other three bills. As noticed above, the petitioner had himself agreed to make payment of bills raised, in installments of Rs. 25,000/- per month in the year 2000. After making payment of Rs. 2,06,000/- till Jan, 2003, the petitioner stopped making further payment and then suddenly turned around and raised a dispute. The bills in question are substantial. The petitioner normally would have immediately contested and disputed the bills in case they had not used the telephone and if there was misuse. The petitioner after a feeble protest agreed to make payments and even made some payments. On merits, I do not see any reason to interfere with the impugned award. The writ court while exercising its power of judicial review under Article 226 of the Constitution of Indian is not concerned with the merits of the award but the decision making process. Admittedly, the impugned award has been made by the arbitrator after hearing the parties and considering the material and evidence on record.

6. Counsel for the petitioner submits that the learned arbitrator erred in holding that the Limitation Act does not apply to the claims made by the respondent, MTNL. This

may not be the correct reading of the award. In the present case, the petitioner had invoked the arbitration clause after they had already made part payment of the disputed bills till 4th January, 2003. The petitioner disputed the claim of the respondent MTNL and on their petition matter was referred for arbitration. In these circumstances, I am not inclined to entertain the second contention raised by the petitioner.

The writ petition has no merit and is accordingly dismissed.

SANJIV KHANNA, J.

NOVEMBER 04, 2009
NA