

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

FAO No.5209 of 2012 (O&M)

Date of decision : 27.08.2015

State of Haryana through Engineer in Chief

...Appellant

Versus

M/s B and R Infra Techno (P) Ltd. and ors.

...Respondents

CORAM: HON'BLE MR. JUSTICE AMIT RAWAL.

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

Present: Mr. Ravi Pratap Singh, AAG Haryana for State with
Mr. Ashwanie Kumar Bansal, Advocate for the appellant.

Mr. C.S. Pasricha, Advocate for the respondent No.1.

AMIT RAWAL, J. (Oral)

Challenge in the present appeal is to the impugned order dated 13.12.2011 passed by Additional District Judge, Rewari whereby objection filed against the award on behalf of appellant, has been dismissed.

Mr. Ashwanie Kumar Bansal, Advocate along with Mr. Ravi Pratap Singh, AAG, Haryana, appearing on behalf of appellant, submits that Arbitrator could not have entertained the claim No.3 i.e. Reimbursement of Excise Duty paid on purchase of Bitumen and T&P & entitled for exemption, being World Bank Aided Project. He further submits, that entire rates submitted by the Contractor included the element of all taxes including

excise duty. The Arbitrator has exceeded in its jurisdiction in awarding the claim of ₹19,01,726/- plus interest on the said amount. Objections to this fact have already been dismissed. He confines his prayer by challenging the award allowing claim No.3 by the Arbitrator as Additional District Judge did not deal with such objections in appeal though it falls within the parameters of Section 34 of the Arbitration and Conciliation Act, being against the public policy.

Mr. C.S. Pasricha, learned counsel appearing on behalf of Contractor submits that since objections have been confined only to claim No.3, therefore award vis-a-vis remaining other claims may kindly be treated to be upheld and objection qua other claims be deemed to have been rejected.

I have heard learned counsel for parties and appraised the paper book.

In view of statement made by learned counsel for the appellant, if in present appeal challenge is confined only to claim No.3 for the reasons that Arbitrator could not have awarded the compensation under the said claim against the public policy, in my view and as well as it is evident from perusal of impugned order that this fact has totally escaped from the notice of Additional District Judge. Rather, Additional District Judge has not assigned any reasons, much less, cogent reasons in declining objections dealing with claim No.3. Since appellant has confined his prayer by challenging the decision of the Arbitrator on claim No.3, award of remaining other claims are accordingly upheld.

Since, Additional District Judge has not assigned any reasons, I

deem it appropriate to remand the matter to Additional District Judge, Rewari to decide objections, vis-a-vis claim No.3.

It is made clear that objections shall only confine to claim No.3 and award with regard to other remaining claims is, accordingly, upheld.

With the aforementioned observations, appeal is disposed of.

Parties or their counsels are directed to appear before Additional District Judge, Rewari on 29.09.2015.

It is expected that Additional District Judge shall decide objections within a period of 4 months from the date of receipt of certified copy of order.

Appeal vis-a-vis dismissal/rejection of objections qua other claim is dismissed.

27.08.2015

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**(AMIT RAWAL)
JUDGE**