

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Arbitration Application No. 18 of 2014**

M/s Welcome Marketing Assistance through T.L. Parakh, S/o Late Shri L.C. Parakh, Aged about 58 years, R/o 16, New Market, Choubey Colony, Raipur, Tehsil and Thana Raipur, District Raipur (C.G.)

---- Petitioner**versus**

1. Union of India through the General Manager, South Eastern Central Railway, 5th Floor, C-Block, Bilaspur, District Bilaspur (C.G.)
2. The Divisional Engineer (II), Office of the Sr. DEN (Co-ord-/R), South Eastern Central Railway, Raipur Division, Raipur (C.G.)
3. Senior Divisional Engineer (Co-ordn) South Eastern Central Railway, Raipur Division, Raipur (C.G.)

---- Respondents

For Petitioner	:	Shri Rahul Jha, Advocate
For Respondents	:	Shri Abhishek Sinha, Advocate

Hon'ble Shri Deepak Gupta, Chief Justice**Order on Board****23/12/2016**

1. The Petitioner entered into an agreement with the South Eastern Central Railway for performance of repair block hut replacement of pipe lines and Waris Aliganj Colony individual PVC roof top tank PVC. It is not disputed by the parties that the general conditions of the contract as framed by the Railways are applicable in such cases and

as per Clauses 63 and 64 the dispute under the general conditions of the contract has to be settled by the Arbitrator.

2. As far as agreement is concerned, Clause 15 of Agreement reads as follows:-

“15. Claims to be restricted to 20% of contract value: The provision of clauses 63 & 64 of General Conditions of Contract will be applicable only for settlement of claims or disputes between the parties for value less than or equal to 20% of the value of the contract, provision of clause 63 & 64 and other relevant clause of the General Conditions of Contract will not be applicable and arbitration will not be a remedy for settlement of such dispute.”

3. Combine reading of Clause 15 of the Agreement with Clauses 63 and 64 of the general conditions of contract makes it clear that the Arbitration can be resorted to only when the claim is less than 20% of the contract value. In the present case, the contract value was Rs.63,69,194/- and the claim is for Rs.16,60,000/- which is more than 20% of the contract value.
4. At this stage, Shri Rahul Jha states that he has instruction on behalf of the claimant to submit that the claimant shall restrict his claim to 20% of the contract value of Rs.63,69,194/- i.e. Rs.12,73,838/-.
5. On this specific submission of Shri Rahul Jha that his client will limit his claim to the aforesaid amount, it is directed that the General Manager in terms of Clause 64(3)(a)(i) shall send a panel of three gazetted officers of Railway to the Petitioner and the Petitioner may approve two names out of the panel which shall then decide the matter in accordance with law.

6. Shri Abhishek Sinha submits that the claim is time barred. This matter may also be considered by Arbitral Tribunal and not by this Court.
7. The matter shall be decided by the Arbitral Tribunal in accordance with law. It is made clear that the parties shall be entitled to raise all pleas available to them.
8. The arbitration application stands disposed of.

Sd/-

(Deepak Gupta)
CHIEF JUSTICE