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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

ARBITRATION PETITION NO. 691 OF 2015

M/s Rashi Fabrics	...Petitioner
VS	
M/s Balgopal Textiles Pvt. Ltd.	...Respondent.

.....
None for the Petitioner.
Mr Rushabh Thacker i/b Yashpal Jain for the Respondent.
.....

CORAM : S.C. GUPTA, J.

FEBRUARY 29, 2016

P.C. :

None for the Petitioner. Heard learned counsel for the Respondent.

2 The petition challenges an award passed by the Arbitral Tribunal on 7 June 2014. By the impugned award the Respondent's claim in the sum of Rs.10,59,057/- being the principal amount and Rs.4,87,709/- as an interest up to the date of the award and arbitration costs of Rs.7000/-, aggregating to a sum of Rs.15,53,766/- was allowed with further interest. The disputes between parties arise out of a contract for sale of goods. The Respondent had sold and delivered the goods. There is no dispute between parties either as to receipt of goods or as to their quality. The Respondent's claim was for price of goods sold and delivered. The only defence to the Respondent's claim before the Arbitrator, on the part of the Petitioner, was that there was delay in delivery of goods resulting into damages suffered by the Petitioner herein and that the Petitioner was entitled to adjust the Respondent's claim against a certain claim owed by a sister concern of the Petitioner. On the first question of the alleged delay in delivery of goods, the Arbitral Tribunal came to a conclusion that the Respondent had supplied goods to the Petitioner on time and that the Petitioner had failed to produce any document in proof of either the alleged delay or any damages suffered by the

Petitioner as a result thereof. On the question of adjustment of the claim amount towards the dues of the sister concern of the Petitioner, the Arbitral Tribunal came to a conclusion that the dues purportedly owed to the sister concern of the Petitioner have no relation to the case on hand. It is submitted by learned counsel for the Respondent that the sister concern has already filed separate proceedings against the Respondent for recovery of this claim. The two entities being separate and distinct and the Petitioner not having shown its entitlement to adjust the dues purportedly owed by the Respondent to the sister concern of the Petitioner, there appears to be no merit in this defence. Anyway, all these are questions of fact or at any rate, mixed questions of law and fact. The Arbitrator has considered the evidence on record and on the basis of such consideration has come to the conclusion drawn in the award. The award does not bear any challenge within the parameters of Section 34 of the Arbitration and Conciliation Act, 1996. The Petition is, accordingly, dismissed. No order as to costs.

(S.C.GUPTA J.)