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

Date of Decision: July 21, 2016

+ FAO 640/2003

M/S INTEGRATED CAPITAL SERVICE Appellant

Through: Mr. Vishwa Bhushan Arya,
Advocate

versus

INDU DHAWAN PROPRIETOR DHAWAN INVESTMENTS

..... Respondent

Through: Mr. Bhuvan Gugnani, Advocate

CORAM:

HON'BLE MR. JUSTICE SUNIL GAUR

JUDGMENT

ORAL

Impugned order of 3rd May, 2003 dismisses appellant's objection under Section 34 of *The Arbitration and Conciliation Act, 1996* while holding that the Award of 2nd March, 2002 is reasoned one and the objections raised to it by the appellant fails.

The two objections raised by the appellant in this appeal are that the two credit notes of 11th May, 2001 were withdrawn on 17th May, 2001 as they were subject to settlement, which did not take place and even if it is assumed that these credit notes totaling to ₹8,78,000/- were not withdrawn still the remaining admitted principal amount of ₹2,91,000/- odd has not been dealt with by the arbitrator and this is a patent illegality.

The second and last objection pressed in this appeal is that the

arbitrator has erroneously concluded that there was no authority in favour of husband of respondent to operate the accounts whereas the Member Constituent Agreement of 15th June, 1997 permits husband of respondent to operate the accounts relating to purchase of shares and securities. It is pointed out that the aforesaid credit notes were received by *Mr. Rohit Dhawan*, husband of respondent and so it cannot be said that he had no authority to operate the accounts under his seal and signatures on behalf of the respondent.

Learned counsel for respondent supports the impugned order and submits that it is unknown that credit notes are given by a party to another party, who has an outstanding amount of ₹19,00,000/- odd in respect of all the accounts between the parties. It is vehemently submitted that there is no concept of temporary credit notes and there is no justification whatsoever to give credit notes, which infact were given under the signatures of the appellant to the respondent and not to her husband. Nothing else was urged by either side.

After having heard learned counsel for the parties at length and on perusal of the Award, impugned order, material on record and a Division Bench decision in *Veda Research Laboratories Ltd. Vs. Survi Projects* 2013 III AD (Delhi) 165, this Court finds that the scope of objections under Section 34 of *The Arbitration and Conciliation Act, 1996* is quite limited and unless there is a patent illegality, Appellate Court refrains to interfere as it is not open to the parties to challenge the Award on the ground that the arbitrator has reached at a wrong conclusion or had failed to appreciate the facts. Unless the arbitrator misconducts himself, the scope of interference by the Appellate Court is quite restricted as it is not

bound to set aside the Award merely because two views are possible. It has to be seen whether the Award is unfair and so unreasonable that it shocks the conscience of the Court. Meaning thereby, a mere irregularity or illegality is not sufficient to set the Award at naught.

In the light of the afore-referred settled legal position, the impugned order and the Award has been scrutinized and thereafter this Court is of the considered opinion that merely because husband of respondent had the authority would not vitiate the Award or the impugned order. There is no material on record to justify that the issuance of two credit notes by the appellant as the credit notes do not contain a rider that they are issued subject to settlement. Otherwise also, there is no concept of temporary credit notes. So, on this account also the Award or the impugned order cannot be faulted. If principal amount of ₹2,91,000/- was outstanding, then there was no question of issuing of credit notes by the appellant so, on this reasoning also the Award and the impugned order are held to be justified.

Finding no patent illegality in the Award and the impugned order, this appeal is dismissed while leaving the parties to bear their own costs.

(SUNIL GAUR)
JUDGE

JULY 21, 2016

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