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

\+ ARB.P. 57/2015

AMRIT PAL SINGH ..... Petitioner

Through Mr.Anil Singal, Adv.

versus

MOHAN SINGH NAGPAL ..... Respondent

Through Mr.H.L. Dasi, Adv. with Mr.Shekhar Dasi and Mr.Harpreet S. Nagpal, Advs.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN SINGH

<u>O R D E R</u>

% 25.07.2016

The petitioner has filed the present petition for appointment of an Arbitrator. In para 7 of the Agreement dated 9th September, 2010 there is a provision of depositing the tax. The said para reads as under:

> "7. TAXES
>
> 7.1 Contractor shall be responsible for paying all taxes, duties, fees, imposts etc to Central or State Government as the case may be.
>
> 7.2 Contractor shall deduct all taxes, duties, fees, imposts etc actually paid to Central or State Government from. Sub Contractor's account on the basis of original challan/receipt as the case may be.
>
> 7.3 Contractor is under an obligation to get itself/himself registered under the applicable State or Central laws after consultation with experts/ consultants. Sub Contractor shall be responsible/reimburse for any tax which may paid by Contractor in future With regard to this contract."

In view of the order passed on 11th August, 2015, the petitioner and the respondent have both filed their respective affidavits. Para 3 of the petitioner's affidavit reads as under:

> "3. That on 10.9.2010 the respondent and petitioner entered into a Sub-Contract Agreement dated 9.9.2010 in respect of the Minor Works Jobs in the Building belonging to Delhi Police in South-East Distt., New Delhi."

Counsel for the respondent states that the respondent has deposited the tax @10.30%. Counsel has also produced the document for primary education cess to show the application of taxes. The relevant portion is extracted as under:

> "Primary Education Cess (P.Ed. Cess) of 20% and Secondary and Higher Education Cess (SHEC) of 1% will be payable on the amount of service tax. In other words, the effective rate of service tax will be 10.30% with effect from 24.02.2009."

Counsel for the petitioner at this stage submits that in case the respondent is agreeable to supply all the proofs with regard to the deposit of the tax, he may not press the petition. However, if less tax is applicable, he would take appropriate remedy for refund of the same. Counsel for the respondent is agreeable to the said suggestion. The receipt of the tax deposited by the respondent be supplied to the learned counsel for the petitioner within four weeks from today.

The present petition is accordingly disposed of.

MANMOHAN SINGH, J.

JULY 25, 2016/jk