

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

% *Order delivered on: 29th March, 2016*

+ **ARB.P. 373/2014**

JAIHIND PROJECTS LTD Petitioner
Through Mr.Chirag M. Shroff, Adv.

versus

GAIL(INDIA) LTD Respondent
Through Ms.Ranjana Roy Gawai, Adv. with
Ms.Vasudha Sen, Adv.

CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J. (ORAL)

1. The petitioner has filed the present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of sole arbitrator to adjudicate the disputes between the parties arising out of the contract between the parties.
2. The prayer is strongly opposed by the learned counsel appearing on behalf of the respondent who argued that there is no live dispute between the parties.
3. Counsel for the respondent submits that the petitioner has already issued 'No Claim Certificate' dated 5th September, 2013 to the respondent. She further submits that all claims, dues, issues and contentions of the petitioner stood fully and finally settled and the petitioner has already received

the payments as per its final bill. Therefore, there is no arbitrable dispute between the parties. In the said 'No Claim Certificate' the petitioner confirmed that the petitioner absolved the respondent from all liabilities present or future arising directly or indirectly out of the said contract. The petitioner has received Rs.30608788/- as per its final bill dated 31st August, 2013.

4. The petitioner does not dispute that 'No Claim Certificate' has been issued by it. Copy of the same is placed on record. The contents of the same are reproduced as under:

“NO CLAIM CERTIFICATE

We, public limited a company incorporated under the laws of India having its registered office at 3rd floor, Venus Atlantis Corporative Park Ahmedabad and carrying on business under the name and style M/s. JAIHIND PROJECTS LIMITED were awarded the contract by GAIL (India) Ltd. in reference to DLOA Ref. No. GAIL/ND/CP/PROJ/KC-COMP/10-30/13/94/C-10/130 Dated:-29.11.2010 ("Contract").

After completion of the above-said Work under the contract, we have scrutinized all our Claims, contentions, disputes, issues and we hereby confirm that after adjusting all payments received by us against our R.A. Bills, our balance entitlement under the Contract is to a sum of **Rs.30608788 (Rupees Three Crore Six Lac Eight Thousand Seven Hundred Eighty Eight only)** as per our Final Bill dated 31.08.2013 towards full and final settlement of all our claims, dues, issues and contentions from GAIL (India) Ltd.

We confirm and declare that with the receipt of aforesaid monies, all our claims, dues, disputes, differences between M/s. M/s.

JAIHIND PROJECTS LIMITED and GAIL (India) Ltd. under and with reference to said Contract stands fully and finally settled.

We further absolve GAIL (India) Ltd. from all liabilities present or future arising directly or indirectly out of the Contract.

We further confirm that the present settlement has been arrived at after mutual negotiations and is freely and fairly entered into between the parties. There is no economic duress or any other compulsion on us in entering into this settlement.”

5. Counsel for the respondent states that after signing of ‘No Claim Certificate’, the same statement has been made by the petitioner in its notice of demand of dues. She submits that the entire amount has been paid and after the expiry of about six months, the petitioner has raised false and frivolous claims despite of ‘No Claim Certificate’ issued by the petitioner. There is a force in the submission of the learned counsel for the respondent. No justification whatsoever has been given by the learned counsel for the petitioner as to why the said claims are being re-agitated by the petitioner after the expiry of six months. There are no details in the petition about the fraud, duress and pressure. It was merely argued during the course of argument that it might have been signed under pressure and fraud committed by the respondent. There is also no justification with regard to such delay and no reasons have been assigned that once ‘No Claim Certificate’ has been signed why the said grievance was not made by the petitioner immediately within reasonable time after signing of the same. Another petition, being Arb. P. No.243/2015, between the same parties was dismissed on 17th February, 2016.

6. Counsel for the respondent has also relied upon the decision of similar type of case passed by this Court in the case of *Essar Projects (India) Ltd. & Ors. v. Gail (India) Ltd.*, (2014) 209 DLT 754 who submits that the said decision has been confirmed by the Supreme Court. Under these circumstances, the present petition is not maintainable as there is no live dispute between the parties once 'No Claim Certificate' has been signed by the petitioner and no valid justification was given by the petitioner.

7. The petition is accordingly dismissed.

MARCH 29, 2016

**(MANMOHAN SINGH)
JUDGE**

