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

R-216

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**OMP 148/2009**

NATIONAL HIGHWAYS AUTHORITY OF INDIA  
(NHAI)

..... Petitioner

Through: Mr. Mukesh Kumar, Advocate.

versus

M/S NAVAYUGA ENGINEERING  
COMPANY LTD.

.... Respondent

Through: None.

**CORAM: JUSTICE S.MURALIDHAR**

**ORDER**  
**16.12.2016**

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1, The challenge in this petition under Section 34 of the Arbitration and Conciliation Act, 1996 ('Act') filed by the Petitioner, National Highways Authority of India (NHAI) is to an impugned award dated 3<sup>rd</sup> October 2008 passed by the learned Arbitral Tribunal ('AT') in the dispute arising out of the Contract Agreement dated 13<sup>th</sup> September 2001 for the work of "Widening of 4/6 lanes and upgrading of the existing 2 lane road (Bridges over 30 m flyover and road over bridges) in the State of Andhra Pradesh between Km 98 (Srikakulam) to Km 233 (Ichapuram) of Vishakapatnam to Ichapuram Section of NH-5.

2. Of the six claims filed by the Petitioner, the AT allowed only Claim Nos. 1 and 2 and rejected claims 3 and 4. Under Claim No. 5, the AT has allowed past and *pendent lite* interest @ 10.5% and future interest @ 12%.

3. As regards Claim No. 2, this is for Rs. 3,51,74,750 on the ground of denial of price escalation on permanent works, it is seen that the issue

stands covered against NHAI by the decision dated 30<sup>th</sup> August 2010 in FAO (OS) 338 of 2010 (*National Highways Authority of India v. Unitech-NCC Joint Venture*). In that view of the matter, the Court does not find any ground to interfere with the impugned award in respect of Claim No. 2.

4. Claim No. 1 was for Rs. 59,33,920 on the ground of wrong mention of HYSD bar reinforcement @ Rs. 20 per tonnes as against the rate of Rs. 20,200. In this regard learned counsel for the Petitioner urged that what was written words was only 'Rupees Twenty' and therefore, the AT should have gone by the words and not by the number in deciding this claim.

5. A perusal of the impugned Award reveals that the AT has carefully analysed the evidence before deciding to allow the claim. While filling up the price in the bid, the rate for HYSD bar reinforcement was entered as Rs. 20,200 in figures. The amount obtained by multiplying the said rate with the quantity of 294 tons was entered correctly as Rs. 59,38,000. It was, therefore, clear that the intended rate was Rs. 20,200 per tonne and that was entered correctly in figures while the rate in words was incompletely written as 'Rupees Twenty' instead of 'Rupees Twenty thousand two hundred only'. As rightly pointed out by the AT, "this is an inadvertent error". The absence of words 'only' at the end of words 'Rupees Twenty' is another indication that the writing of the figure in words was incomplete.

6. Consequently, this Court is unable to agree with learned counsel for the Petitioner that the AT erred in going by the figure instead of the written words. The Court finds nothing perverse in the above reasoning and conclusion of the AT. The Award in respect of Claim No. 1 is, therefore, upheld.

7. As regards the interest under Claim No. 5 the rate awarded appears to the Court to be reasonable and does not call for interference.

8. For the aforementioned reasons, this petition is dismissed but, in the circumstances of the case, with no orders as to costs.

**S.MURALIDHAR, J**

**DECEMBER 16, 2016**

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