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

+ **FAO(OS) (COMM) 147/2016**

M/S K S S PETRON PVT LTD

..... Appellant

Represented by : **Mr.K.K.Sharma, Sr.Advocate**
instructed by **Mr.Vinod**
Wadhwa, Mr.Ayush Chourasia,
Advocates

versus

M/S GYPSUM STRUCTURAL INDIA PVT LTD Respondent

Represented by :

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

% **23.12.2016**

CM No.47989/2016

Allowed subject to just exceptions.

CM Nos.47990-91/2016

For the reasons stated in the two applications 13 days delay in filing and 12 days delay in refiling the appeal are condoned.

Applications are allowed.

FAO(OS) (COMM) 147/2016

1. Before the learned Single Judge the only point urged related to the jurisdiction of the Arbitrator. It was urged that the work order being not signed by the respondent, there would be deemed to be no arbitration agreement between the parties. Learned Senior Counsel urges that the Arbitrator drew jurisdiction from the work order in question dated July 12,

2012.

2. In paragraph 3.4 of the impugned order the learned Single Judge has noted that after the respondent invoked the arbitration proceedings it filed Arbitration Petition No.36/2014 under Section 11 of the Arbitration and Conciliation Act, 1996, in which proceedings appellant concurred for an Arbitrator to be appointed.

3. The appellant not having challenged reference being made to the Arbitrator when petition under Section 11 of the Arbitration and Conciliation Act, 1996 was filed and on the contrary having concurred in the appointment of the Arbitrator to decide the dispute between the parties would be estopped from questioning the jurisdiction of the Arbitrator.

4. No other point is urged in the appeal and indeed cannot be for the reasons before the learned Single Judge the only argument advanced was as aforenoted.

5. We find no merit in the appeal which is dismissed in limine and therefore there shall be no order as to costs.

CM No.47988/2016

Since the main appeal has been dismissed in limine, instant application which seeks stay of the impugned order is dismissed as infructuous.

PRADEEP NANDRAJOG, J

YOGESH KHANNA, J

DECEMBER 23, 2016

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