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

\+ EFA(OS) 46/2015, C.M. APPL.31215/2015

M/S BALMUKAND JOINWAL ..... Appellant

Through : Sh. Sandeep Sharma and Ms. Risha Mittal, Advocates.

versus

DELHI DEVELOPMENT AUTHORITY ..... Respondent

Through : None.

CORAM:
HON'BLE MR. JUSTICE S. RAVINDRA BHAT
HON'BLE MS. JUSTICE DEEPA SHARMA

O R D E R

% 11.01.2016

The appellant claims to be aggrieved by an order of the learned Single Judge dated 05.11.2015 made in the course of the execution proceedings. The respondent/DDA suffered an award to the tune of ₹2,52,911.49/- along with *pendente lite* interest @ 12% per annum and 10% till realization. The appellant had contended that the Judgement Debtor/DDA had not complied with the terms of the award which stood confirmed by a judgment of the Court rejecting the objections under Section 34 of the Arbitration and Conciliation Act, 1996 [hereafter "the 1996 Act"]. The appellant's submission was that the direction to pay interest implied compound interest, i.e. interest in respect of the principal amount adjudged and future interest @ 10% calculated on *pendente lite* basis. The appellant/decree holder had relied upon several decisions of this Court. Learned Single Judge turned down the appellant's plea, stating that the Arbitral Tribunal had awarded post-award interest @ 10% per annum only on the principal amount and not on the *pendente lite* award.

Learned counsel submits that the previous view that prevailed was spelt-out in *State of Haryana v. S.L. Arora* AIR 2010 SC 1511 where the Supreme Court declared that an Arbitral Tribunal did not possess the power to direct payment of compound interest on the principal amounts awarded (including the post-award period). He argues that this view was overruled by the majority judgment in *M/s. Hyder Consulting (UK) Ltd. v. Governor State of Orissa* [Civil Appeal No.3148/2012, decided on 25.11.2014]

The decision in *Hyder (supra)* comprises of a plurality of opinions. At the outset, this Court notices that the opinion of Hon'ble the Chief Justice and Justice S.A. Bobde which comprised the majority held that the view espoused by *S.L. Arora (supra)* was incorrect inasmuch as the Arbitral Tribunal could award further interest on the interest awarded. The minority view of Justice Abhay Manohar Sapre was of the opinion that *S.L. Arora (supra)* was correctly decided.

The Court notices that in the present case, the award did not carry with it any directions to compound the interest for any periods, i.e. be the *pendente lite* period or post-award period. The only distinction it made was between the rates of interest. Whereas for the *pendente lite* period, the rate of interest directed was 12% per annum, for the latter period, i.e. future interest after the award, the rate awarded was 10%. Thus, the award was silent on the aspect of compounding of interest.

In these circumstances, the Court does not concur with the submission of the appellant that the mere existence of a power on the part of the Arbitral Tribunal to direct payment of compound interest or interest upon interest for the principal amounts awarded implies that such compounding has to perforce occur. Such is not the purport of the law declared in *Hyder (supra)* – as far as this Court discerns it. Consequently, we are of the opinion that the impugned order does not call for interference. The appeal fails and is accordingly dismissed.

S. RAVINDRA BHAT, J

DEEPA SHARMA, J

JANUARY 11, 2016
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