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

+ EFA(OS) 14/2016

SHARMA & ASSOCIATES PVT LTD Appellant

Represented by: Mr.Sandep Sharma and
Mr.Amit Chaudhary,
Advocates.

versus

NATIONAL PROJECTS CONSTRUCTION CORP
LTD

..... Respondent

Represented by: Mr.Anup J.Bhambhani, Senior
Advocate instructed by
Mr.Rajat Arora and
Mr.Jaypreet Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRADEEP NANDRAJOG

HON'BLE MS. JUSTICE PRATIBHA RANI

ORDER

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30.08.2016

CM No.21520/2016

Allowed subject to all just exceptions.

CM No.21519/2016 & CM No.21521/2016

1. For the reasons stated in the two applications 40 days' delay in filing the appeal and 160 days' delay in re-filing the appeal is condoned.
2. Both the applications are disposed of.

EFA(OS) 14/2016

1. The only issue which arises for consideration in the appeal is the date wherefrom liability of either party to pay interest would be triggered.

2. As per the award certain amounts under different heads have been awarded to the contractor and certain to the owner of the works. On the issue of interest the award reads as under:

'Under this claim the interest @ 24% is claimed from 01.04.93 till the date of the payment of the claimed amounts. The submissions were made by the claimants in respect of this claim in the hearing held on 12 and 13 Nov. 2000.

The respondents gave the reply to this claim in the hearing held on 31.03.2001. In reply to this claim the respondents submitted that no argument to this claim required to be made.

I award the interest to both the parties on their dues at the rate of 12% per annum on the awarded amounts. Three months time is given to the respondents to make the payment, failing which the respondents will be liable for the payment of interest @ 12% per annum of the awarded amounts from the date of award till the date of payment.'

3. In the first paragraph the learned Arbitrator notes the claim towards interest and the dates on which the claimant's arguments were heard. In the second paragraph the learned Arbitrator notes the date on which the respondent was heard. In the third paragraph issue of liability towards interest has been decided. The third paragraph has two sentences. In the first sentence rate at which interest would be paid has been determined. It is 12% per annum on the awarded amounts. The second sentence decides the date wherefrom interest has been awarded. The learned Arbitrator has granted three months time to the owner of the works to pay the contractor for the reason that after adjusting the sums awarded net amount would be payable by the owner of the works to the contractor.

4. Using the word '*failing which*' the learned Arbitrator has held that if

the amount is not paid within three months the owner of the works would be liable to pay interest as awarded i.e. @ 12% per annum from the date of the award till when payment is made.

5. Plain English language tells us that pendente lite interest has not been awarded by the learned Arbitrator. What the learned Arbitrator has done is to grant the owner of the works three months time to make the payment and this would be without any interest. If payment is not made within three months the interest as determined in the first sentence becomes payable from the date of the award.

6. Noting that the award on this aspect of the matter has been conditionally interdicted by the learned Single Judge with respect to the rate of interest, which is reduced from 12% to 9% subject to the condition that in case the payment is not made within eight weeks, the rate of interest would be reverted to 12% as per the award we find no merit in the appeal.

7. We note that as per the impugned order the view taken by the learned Single Judge is the same as taken by us.

8. The appeal is dismissed in limine.

9. No costs.

PRADEEP NANDRAJOG, J.

PRATIBHA RANI, J.

AUGUST 30, 2016

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