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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

ARBITRATION PETITION NO.988 OF 2016

Bharat Heavy Electricals Ltd.

...Petitioner

VS

M/s. Pinkcity Logistics Ltd. And Surendra Jeet Singh

...Respondents

.....

Ms. Shweta Sharma, a/w. Ms. Charoo Shukla, i/b. Solicis Lex, for the
Petitioner.

Mr. Nirman Sharma, a/w. Mr. Rahul P. Jain, for the Respondents.

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CORAM : S.C. GUPTE, J.

DATED: JUNE 7, 2017

P.C. :

. Heard learned Counsel for the parties.

2. The only challenge to the impugned award pressed before the Court is on the finding of the Sole Arbitrator on the issue of limitation. The Petitioner was original claimant before the Arbitrator. The claim was in respect of a clearing house agency contract awarded by the Petitioner to the Respondents. It was the Petitioner's case that as a result of return of certain air consignment dockets by the Respondents without clearance, the Petitioner suffered huge losses on demurrage/container detention charges/Air Warehouse charges/Ground Rent/Storage charges. The consignment dockets were returned by the Respondent in August 2010. The arbitration agreement, however, was invoked on 8 April 2015. The invocation was clearly beyond the period

of limitation. It is, however, submitted by learned Counsel for the Petitioner that the date of accrual of the cause of action, in the present case, should be reckoned as at the date of encashment of the security deposit by way of enforcement of the bank guarantee given by the Respondent. The encashment of security deposit towards a cause of action, which has already accrued to the Petitioner, has nothing to do with the accrual of cause of the action as such. There is no warrant for treating that date as the date of accrual of the cause of action. The Arbitrator has correctly observed that the invocation of bank guarantee is an action and cannot be reckoned as a cause of action. The cause of action, as rightly held by the learned Arbitrator, arises on the date of the breach of contract complained of. That date, in this particular case, happened to be sometime in August 2010. The invocation of the arbitration agreement in April 2015 is clearly beyond time. No infirmity can be shown in respect of the impugned award on this aspect within the parameters of the law of challenge to an arbitral award. There is no merit in the Arbitration Petition. The petition is dismissed. No order as to costs.

(S.C. GUPTE, J.)