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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ O.M.P. (COMM) 380/2016 & CCP (O) No.4/2017
IA Nos.9722-23/2016
CWG DELHI 2010

..... Petitioner

Through : Mr.Rohit K.Aggarwal, Advocate.

versus

A2Z MAINTENANCE, AND
ENGINEERING SERVICES LTD.

..... Respondent

Through : Mr.Atul Kumar, Mr.Arun Gaur,
Advocates.

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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13.12.2017

IA No.13008/2016

This application is for amendment to the application under Section 34 of the Arbitration and Conciliation Act 1996 for challenging the award dated 25.03.2016 on merits. Earlier the objections were filed and the petitioner challenged the interest granted by the learned arbitrator but now the petitioner intends to challenge the entire award on merits. This application was filed on 20.10.2016 hence per-se is barred by limitation, per section 34(3) which runs as under:

*“Section 34(3) in THE ARBITRATION AND
CONCILIATION ACT, 1996*

*(3) An application for setting aside may not
be made after three months have elapsed
from the date on which the party making that*

application had received the arbitral award or, if a request had been made under section 33, from the date on which that request had been disposed of by the arbitral tribunal:

Provided that if the Court is satisfied that the applicant was prevented by sufficient cause from making the application within the said period of three months it may entertain the application within a further period of thirty days, but not thereafter.”

Admittedly the award was received on 05.04.2016. The reasons given for condoning the delay is a letter dated 13.10.2016 received from the Government of India seeking to challenge the award on merits too. Since the limitation for challenge to an award is prescribed under Section 34(3) of the Act hence amendment can not be allowed being beyond limitation. Moreover the principle amount has since has been paid by the respondent to the petitioner.

O.M.P. (COMM) 380/2016

Now we come to the interest part. The learned counsel for the petitioner submits the interest @ 18% as is awarded is on a very higher side and it need to be reduced. The learned arbitrator awarded with the interest as follows:

“AWARD

I Award to A2Z Maintenance and Engineering Services Ltd., D-116, First Floor, Shopping Mall, Arjun Marg DLF City, Phase-I, Gurgaon, Haryana, and against CWG Delhi 20101 Through the Chairman, Organizing Committee City Centre-II (NDCC Towers) Opp. Jantar Mantar, Jai Singh Road, New Delhi - 110001 a sum of Rs.6,43,81,730/- with interest @ 18% p.a.

from 05.01.2012 to till the date of Award i.e. 25.03.2016 which interest amounting to Rs.4,88,94,837/- totalling a sum of Rs.11,32,76,567/-.

2. I Award interest to the Claimant A2Z Maintenance and Engineering Services Ltd., D-116, First Floor, Shopping Mall, Arjun Marg DLF City, Phase-I, Gurgaon Haryana and against CWG Delhi 2010, Through the Chairman, Organizing Committee, City Centre-II (NDCC Towers) Opp. Jantar Mantar, Jai Singh Road, New Delhi - 110001 on the amount of Rs.2,24,68,334/- from 05.01.2012 to 29.05.2012 @ 18% p.a. amounting to Rs.16,06,639/-.

3. I also Award Rs.5,50,000/- towards cost to the Claimant A2Z Maintenance and Engineering Services Ltd. D-116, First Floor, Shopping Mall, Arjun Marg DLF City, Phase-I, Gurgaon, Haryana and against Respondent, CWG Delhi 2010, Through the Chairman, Organizing Committee, City Centre-II (NDCC Towers) Opp. Jantar Mantar, Jai Singh Road, New Delhi - 110001.

4. On this amount of award of Rs.11,54,32,206/- Claimant is entitled to future interest @ 18% p.a. from the date of Award to till the payment. However, if the aforesaid amount of award is paid by the Respondent to the Claimant within 2 months from the date of Award, no future interest shall be payable. Given under my hands at New Delhi on this 25th day of March, 2016.

NOTE:- The Award has been written on a non-judicial stamp of @ Rs.100/- only. On payment of proper stamp duty on the amount of the Award, it will become effective and

enforceable.”

I have examined the award. The interest @ 18% p.a. as awarded is reasonable since is allowed on dues on commercial transaction. Nevertheless in order to settle the controversy, the respondent has agreed to voluntarily reduce the interest claim from 18% p.a. to 15% p.a. if the outstanding amount is so paid by the petitioner within two months from today. The learned counsel for petitioner has agreed to cooperate in getting the payments released in time.

Hence the interest on the sums so awarded is reduced from 18% p.a. to 15% p.a. provided the amount due towards interest is paid by the respondent within two months from today.

The petition stands disposed of in terms of the above.

YOGESH KHANNA, J

DECEMBER 13, 2017

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