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

\+ O.M.P. 10/2017 and IA No. 6276/2017

YOGESH BANSAL ..... Petitioner

Through Mr.P.D.Gupta, Sr. Adv. with Ms.Shweta Singh & Mr.Dinesh Sabharwal, Advs.

versus

APNACIRCLE INFOTECH PVT. LTD. ..... Respondent

Through

CORAM:
HON'BLE MR. JUSTICE JAYANT NATH

<u>O R D E R</u>

% 22.09.2017

1. Learned senior counsel for the petitioner submits that an affidavit of service of the respondent has been placed on record. He further submits that though the respondent appeared initially in the arbitration proceedings before the learned Arbitrator, he later stopped appearing. Respondent is served and is proceed ex parte.

2. This petition is filed under Section of 34 the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the Act) to set aside the Award dated 22.04.2017 to the extent it adjudicates issue No. 3. The said issue reads as follows:-

> “(c) (3) Whether under the garb of Business Support Service Agreement the claimant illegally derived funds in violation of taxation laws? If yes, its effects.”

3. The grievance of the petitioner is essentially the directions passed in paras 53 to 55 of the Award whereby the learned Arbitrator has noted that the income tax returns of the claimant/petitioner for certain assessment years have been placed on record. After scrutinizing the income tax returns, the learned Arbitrator reaches a conclusion of alleged suppression of income by the petitioner and thereafter has issued a direction to the Delhi International Arbitration Centre under whose aegis the arbitration proceedings were being conducted to send a copy of the Award to the Assessing Officer of the claimant/petitioner with a request to re-assess his income for the said assessment years.

4. It is manifest that the direction is contrary to the Income Tax Act. It is not for the learned Arbitrator while adjudicating private disputes between the parties to record findings regarding alleged evasion of income and thereafter direct the Income Tax Department to take steps for the alleged evasion. It is doubtful if the full facts on the alleged evasion were available before the learned Arbitrator to have come to such a conclusion

5. These three paras are manifestly contrary to the fundamental policy of Indian law being wholly contrary to the legal position. The said paras of the award dated 22.04.2017 are accordingly quashed. Petition is allowed to that extent.

6. Pending application also stands disposed of.

JAYANT NATH, J.

SEPTEMBER 22, 2017
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