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

+ **FAO(OS) (COMM) 117/2017**

M/S BUCON INFRATECH PVT LTD Appellant

Through: Mr. Raman Kapur, Sr. Adv. with
Mr. Dhiraj Sachdeva, Adv.

versus

M/S RUDRA BUILDWELL PROJECTS PVT LTD

..... Respondent

Through: Ms. Ayushi Aggarwal, proxy counsel
for Mr. Pankaj, Adv.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE CHANDER SHEKHAR

ORDER

04.09.2017

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1. With the consent of the parties, the appeal was heard.
2. The appellant/plaintiff is aggrieved by the return of its plaint. In the impugned order of the learned Single Judge exercising jurisdiction under Order 7 Rule 10 CPC, liberty was granted to the plaintiff to institute the claim through another suit before the concerned Court. The ground on which the learned Single Judge held the suit to be not maintainable is that under Section 2(1)(c)(vi) – according to the reasoning of the impugned order, a claim based upon the electrical works of a Group Housing Project (“Palace Heights”), Noida Extension for which the appellant/plaintiff had bid and was awarded the contract, did not amount to “commercial dispute”

under the Commercial Courts, Commercial Division and Commercial Appellate Division of the High Court Act, 2015 (hereafter called “the Act”). In the suit claim, the plaintiff had alleged that the contract value for the internal electrical work (conducting) and other related work for the project was ₹5,10,00,000/-. This was out of a total work contract value of ₹1,27,57,50,000/- awarded to the appellant, in respect of the civil works. It is contended that the Single Judge fell into error in giving a narrow interpretation to the term “commercial contract” and overlooked Clause (vi) of Section 2(1)(c) of the Act.

3. The definition of “commercial dispute” is an inclusive one and states that such dispute “means a dispute arising out of” civil incidents or transactions which are specifically mentioned thereafter of which “construction and infrastructure contracts, including tenders” (Clause (vi)) is one.

4. This Court is in agreement with the appellant’s argument in that the restrictive interpretation given on the one hand to Clause (vii), to segregate contracts relating to construction of residential properties does not *per se* further the legislative intent. By such yardstick, construction contracts pertaining to large housing projects would stand excluded. Likewise, in this case, the fact that the contract involved pertained to providing electrical and related infrastructure, was plainly overlooked. Clause (vi) in this case clearly delineates such infrastructure disputes as a class falling within the larger definition of “commercial dispute”.

5. In view of the above reasons, we are of the opinion that the return of the plaint directed by the impugned order cannot be sustained. The said

order dated 17.04.2017 is hereby set aside. The suit, consequently, is restored to the file of this Court.

The parties are directed to be present before the concerned learned Single Judge on 25.09.2017 according to roster allocation who shall then proceed with the matter in accordance with law.

S. RAVINDRA BHAT, J

CHANDER SHEKHAR, J

SEPTEMBER 04, 2017
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