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

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Judgment delivered on: 28.08.2017

+ O.M.P.(MISC.)(COMM.) 24/2017

ASF INSIGNIA SEZ P. LTD

..... Petitioner

versus

PUNJ LLOYD LTD

..... Respondent

Advocates who appeared in this case:

For the Petitioner : Mr. Vikas Dhawan with Mr. Siddharth Agrawal, Mr. S. Panda and Ms. Vanya Khanna, Advocates.

For the Respondent : Ms. Niyati Kohli, Advocate.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

28.08.2017

SANJEEV SACHDEVA, J. (ORAL)

IA No.9705/2017 (exemption)

Exemption is allowed subject to all just exceptions.

O.M.P.(MISC.)(COMM.) 24/2017

1. By this petition under Section 29A of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the Act), the petitioner seeks extension of time to enable the Arbitrator to consider the application for amendment of the Statement of Claims on merits.

2. Learned counsel for the petitioner submits that in view of certain errors and omissions in the claim petition, which went to the root of the matter, the petitioner/claimant filed an application seeking amendment of the claim petition.

3. It is contended that the Arbitral Tribunal, by order dated 09.08.2017, declined to consider the application solely on the ground that if the application were to be allowed, it would tantamount to de-novo start of the arbitration and, resultantly, it would not be possible to complete the proceedings within the time envisaged under the Act.

4. Learned counsel for the petitioner submits that if the time for making the award were to be enlarged, the petitioner would approach the Tribunal to consider the application of the petitioner on merits.

5. Learned counsel appearing for the respondent submits that the application seeking amendment is not maintainable. However, she has no objection to the time being enlarged.

6. Perusal of order dated 09.08.2017 shows that the Arbitral Tribunal has declined to consider the application of the petitioner for

amendment on merits, solely on the ground that if the application were to be allowed, it would not be possible to complete the proceedings within the time envisaged under the Act. The Tribunal, as already noticed by the said order, has observed that approximately 17000 pages of documents are on record.

7. The original time for making award expires on 09.09.2017 and the Tribunal, by order dated 09.08.2017, has, with the consent of the parties, extended the time for making the award by six months. The extended period of six months would expire on 09.03.2018.

8. Learned counsel for the respondent submits that though the respondent opposes the application for amendment, however, without prejudice, it is submitted that if the application for amendment were to be allowed, the respondent would require about four weeks time to file a response to the amended claim petition.

9. Learned counsel for the parties are agreeable that post the amendment, issues would not be required to be recast and the parties would be relegated to the stage where the proceedings presently are

i.e. at the stage of filing of the list of witnesses and the evidence affidavits by the claimants.

10. Keeping in view the submissions of the parties, the order dated 09.08.2017 and the fact that, if amendment were to be allowed, respondent would take only four weeks to file a response to the amended claim petition, I deem it expedient to extend the period for making the award by further period of three months.

11. The petition is, accordingly, disposed of.

12. It is clarified that this Court has neither considered nor expressed any opinion on the merits of the application of the petitioner seeking amendment of the claim petition or the order dated 09.08.2017. This order has been passed only to facilitate the Arbitrator in considering the application for amendment, if he deems it appropriate.

13. Order *Dasti* under the signatures of the Court Master.

SANJEEV SACHDEVA, J

AUGUST 28, 2017/st