

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CR No.1340 of 2018(O&M)
Date of Decision: 08.10.2018**

**M/s Saptashva Solar Limited C-2 Petitioner
Versus
M/s Tayal & Company Respondent**

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Mr. Abhilaksh Grover, Advocate
for the petitioner.

Mr. Joginder Sukhija, Advocate and
Mr. Naresh Kumar, Advocate
for the respondent.

RAJ MOHAN SINGH, J.

[1]. Petitioner is aggrieved of the order dated 13.11.2017 passed by Additional District Judge, Chandigarh, adjourning the application under Section 14(2) of the Arbitration and Conciliation Act, 1996 (hereinafter to be referred as 'the Act') for arguments along with main petition.

[2]. Perusal of the record would show that arbitral award was passed on 25.02.2017. Against the original award, petition under Section 34 of the Act is pending. In the original award, an application under Section 33 of the Act was filed for correction of the award thereby seeking addition of amount of Rs.11.25 lacs which was not added in the relief on 23.05.2017. The said

application was filed after lapse of 59 days from the date of passing of the original award. The objections were filed by the petitioner, but the award was modified vide order dated 14.08.2017.

[3]. An application under Section 14(2) of the Arbitration and Conciliation Act, 1996 was filed by the petitioner before the Additional District Judge on the ground that amended award could not be passed after lapse of 30 days as per Section 33 of the Act.

[4]. Additional District Judge adjourned the application for consideration along with main case on the ground that the decision of the application under Section 14(2) of the Act may affect the merits of the main case and would further create complications.

[5]. I have heard learned counsel for the parties.

[6]. Both the parties have tried to argue the case on merits.

[7]. Learned counsel for the petitioner with reference to **Union of India Vs. Popular Constructions Co., (2001) 8 Supreme Court Cases 470, Consolidated Engg. Enterprises Vs. Principal Secy. Irrigation Deptt. and others, 2008(2) RCR (Civil) 897, State of Goa Vs. Western Builders, 2006(3) RCR (Civil) 475, Ircon International Ltd. Vs. Budhraja Mining and Constructions Ltd., (2007) ILR 7 Delhi 53, MKU Ltd. Vs.**

Union of India, 236 (2017) DLT 213 and **Shyam Telecom Ltd.**

Vs. Arm Ltd., 2004(7) DRJ 91 submitted that additional award could not be passed after a period of 30 days in view of language of Section 33 of the Act, wherein crucial words are “but not thereafter” used in the proviso to sub Section (3). There is an express exclusion within the meaning of Section 29(2) of the Limitation Act and would therefore, bar the application of Section 5 of the Limitation Act. The limitation prescribes by special statute shall prevail and the provisions of Limitation Act shall stand excluded. An application for correction of any computation error has to be made to the arbitral Tribunal within 30 days from the date of receipt of arbitral award. The application has to be made with notice to the other party. Sub Section 3 of Section 33 of the Act empowers the arbitral Tribunal to make such correction on its own initiation within 30 days from the date of arbitral award.

[8]. Petitioner is aggrieved of postponing of application under Section 14(2) of the Arbitration and Conciliation Act, 1996 till disposal of the main controversy.

[9]. The grievance of the petitioner is that if petition under Section 34 of the Act is decided prior in point of time, then the Court may not say that the additional award has not been challenged by the petitioner. The apprehension of the

respondent is that in case, the application under Section 14(2) of the Act is decided prior to the main petition, it may prejudice the decision of the main case.

[10]. When this Court proceeded to consider the submissions of both the parties on merits with reference to provisions of the Act, a consensus has been reached between the parties that the Additional District Judge may be directed to decide the application under Section 14(2) of the Act at prior point of time. I was also of the same view that the application under Section 14(2) of the Act has to be decided prior to adjudication of the main case on merits.

[11]. At this stage, it would be just and expedient to direct Additional District Judge, Chandigarh to decide the application under Order 14(2) of the Act at prior point of time. Trial Court shall be at liberty to consider legality and propriety of the amended/modified award passed on 14.08.2017 in accordance with law without being influenced by any statement of fact and arguments of any party recorded hereinabove.

[12]. Disposed of.

October 08, 2018

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**(RAJ MOHAN SINGH)
JUDGE**

**Whether reasoned/speaking
Whether reportable**

**Yes/No
Yes/No**