

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

+ **RFA No. 638/2006**

% 30th October, 2018

M/S ASSOCIATED SWICHGEAR & PROJECTS LTD

..... Appellant

Through: Mr. Shiv Khurana, Adv.

versus

M/S HIND ELECTRICIAN

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE VALMIKI J.MEHTA

To be referred to the Reporter or not?

VALMIKI J. MEHTA, J (ORAL)

1. This Regular First Appeal under Section 96 of the Code of Civil Procedure, 1908 (CPC), is filed by the defendant in the suit impugning the Judgment of the Trial Court dated 20.07.2006 whereby the trial court has decreed the suit for a sum of Rs. 3,45,004.12 along with interest at 12% per annum from February 1995 till the institution of the suit and thereafter at 8% per annum *pendente lite* and future till realisation of the decretal amount. The suit amount was claimed on account of supply of cables by the respondent/plaintiff to the appellant/defendant.

2. The learned counsel for the appellant/defendant only argues the appeal for reduction of the high rate of interest granted by the impugned judgment at 12% per annum and 8% per annum *pendente lite*, by placing reliance on the judgments of the Hon'ble Supreme Court which hold that since the interest regime has come down, courts must not grant a high rate of interest. These judgments of the Supreme Court which are relied upon are ***Rajendra Construction Co. v. Maharashtra Housing & Area Development Authority and others*, 2005 (6) SCC 678, *McDermott International Inc. v. Burn Standard Co. Ltd. and others*, 2006 (11) SCC 181, *Rajasthan State Road Transport Corporation v. Indag Rubber Ltd.*, (2006) 7 SCC 700, *Krishna Bhagya Jala Nigam Ltd. v. G. Harischandra Reddy*, 2007 (2) SCC 720 & *State of Rajasthan v. Ferro Concrete Construction Pvt. Ltd* (2009) 12 SCC 1.**

3. It is also argued that this Court has ample power under Section 34 CPC to grant reasonable rate of interest *pendente lite* and in the facts of the present case, taken along with the language of Section 34 CPC, interest at 6% per annum should suffice because the appellant has already deposited the principal amount of Rs. 3,45,000/- in this Court in terms of orders passed in this RFA.

4. In my opinion, the argument urged on behalf of the counsel for the appellant/defendant is justified, and which is more so because the notice relied upon by the respondent/plaintiff is dated 20.01.1998 but the suit itself was filed immediately thereafter on 24.01.1998 without giving opportunity to the appellant/defendant to respond to the notice. In fact where rates of interest are very high, and even if a contract provides for a high rate of interest, then courts are entitled to hold the high contractual rate of interest against public policy vide ***Pt. Munshi Associates (P) Ltd. v. DDA, 2010 Arb LR, 284.***

5. In view of the aforesaid discussion, while the impugned judgment of the trial court is sustained, the rate of interest is modified and reduced by granting 6% per annum simple from the date of the notice served by the respondent/plaintiff on the appellant/defendant being 20.01.1998 and thereafter till realisation.

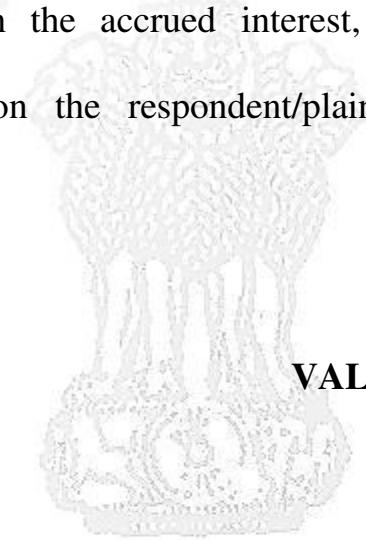
6. Therefore, this appeal is allowed to the limited extent and the suit of the respondent/plaintiff will be decreed for a sum of Rs. 3,45,000/- along with interest at 6% per annum simple from 20.01.1998 till the filing of the suit and the same rate of interest of 6% per annum simple *pendente lite* and future till deposit of the principal amount of Rs. 3,45,000/- in this Court.

7. The balance amount now be positively deposited by the appellant/defendant within a period of three months from today in this Court and in case the balance amount is not deposited within three months from today, then the impugned judgment and decree will stand as it is.

8. The appeal is accordingly partially allowed and disposed of in terms of the aforesaid judgment. The entire amount deposited in this court, alongwith the accrued interest, be released to the respondent/plaintiff on the respondent/plaintiff filing such an application.

OCTOBER 30, 2018
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VALMIKI J. MEHTA, J



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