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

+ **FAO(OS) (COMM) 58/2016**

M/S ARORA BUILDERS

..... Appellant

Through : Sh. Vidit Gupta and Sh. Prakash Dubey,
Advocates.

versus

DELHI JAL BOARD

..... Respondent

Through : Ms. Iram Majid, Advocate.

CORAM:

HON'BLE MR. JUSTICE S. RAVINDRA BHAT

HON'BLE MR. JUSTICE A. K. CHAWLA

ORDER

% **11.04.2018**

1. The appellant is aggrieved by the judgment of the learned Single Judge rejecting its petition under Section 34 of the *Arbitration and Conciliation Act, 1996*. Two broad submissions were made by the appellant who had invoked the arbitration clause in a construction contract which it could not complete and the balance work in respect of which was awarded to a third party.

2. The facts are that the appellants had raised nine claims; the first two of which were for a declaratory award for decision of the contract etc. The quantification of amounts ultimately led to the rejection of the appellant's impugned claim. The Arbitral Tribunal found that the cumulative total of the first four running bills were ₹1,00,69,685.35/- of which ₹70,29,813/- was released to the appellant. The balance was withheld by the respondent agency (hereafter "DJB") on the ground that statutory and other recoveries were due. The DJB even otherwise

justified its cut in the said bill.

3. The other ground urged was in respect of the Claim No.4 and the rejection of the claim for ₹5,23,847/-. Learned counsel submitted that no rationale was given as to why the concerned competent authority's approval was not sought by the DJB.

4. The last ground was with respect to the finding of the Arbitral Tribunal *vis-a-vis* a claim for ₹1,65,097/-.

5. As far as the withholding of the sum of ₹30,39,272/- is concerned, the appellant's counsel stresses that the amount was conceded and even admitted by the DJB in its reply and relies upon a statement in this regard.

6. This Court is unpersuaded by the submission as the so-called 'reply' is to be seen in the totality of circumstances and cannot be considered as an unqualified admission. As far as the reasoning goes, the learned Single Judge noticed the findings on Claim No.3, i.e. withholding of sum of over ₹35 lakhs in para 2 of the impugned order and went on to hold that the reasoning of the Arbitral Tribunal was sound and did not call for interference.

7. The other two claims, in the opinion of the Court, are equally insubstantial. The withholding of ₹5.23 lakhs or the denial of ₹1.65 lakhs can hardly be characterized as "patent errors of law" nor can the award be characterized as so unreasonable, having regard to the fact that it is a speaking one rendered by an expert in the field. This Court recalls that the scope for interference under Section 34 is narrow. The appellate scrutiny under Section 37 is even more circumspect.

8. For the above reasons, this Court is of the view that there is no merit in the appeal; it is accordingly dismissed.

S. RAVINDRA BHAT, J

A. K. CHAWLA, J

APRIL 11, 2018/ajk