

\$~51

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

+ **OMP (ENF.) (COMM.) 116/2017**

ARTEFACT PROJECTS LTD

..... Petitioner

Through: Mr Arpit Bhargava and Ms Hina
Bhargava, Advocates.

versus

AIRPORT AUTHORITY OF INDIA

..... Respondent

Through: Mr Digvijay Rai, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

04.05.2018

1. The petitioner has filed the present petition under Section 36 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act') seeking to enforce an arbitral award dated 23.12.2015, whereby a sum of ₹1,23,67,951/- along with interest was awarded in favour of the petitioner. The respondent has already paid the entire awarded amount except a sum of ₹5,01,133/-.
2. There is some controversy with regard to the payment of the aforesaid sum. There is no dispute that the said sum was received by the petitioner. The controversy is whether the said sum was received on account of the claims, which were subject matter of disputes before the Arbitral Tribunal or in part payment of the work claimed to have been executed by the petitioner towards "construction of the Ramp/Bridge over Chackai Canal and Car Parking" (the said works). The Arbitral Tribunal declined to adjudicate any

claim relating to the said works as the same was not referred to him.

3. The respondent had contested the arbitral award, *inter alia*, on the ground that the Arbitral Tribunal had incorrectly calculated the amount awarded by not taking into account that the aforesaid sum of ₹5,01,133/-, which according to the respondent had been paid for the said works that was subject matter of disputes referred to the Arbitral Tribunal. The said objection was not accepted by this Court, as it appeared that the Statement of Defence filed by the respondent in response to the Statement of Claims filed by the petitioner before the Arbitral Tribunal, indicated that the sum of ₹5,01,133/- had been paid in connection with the said works.

4. The learned counsel appearing for the respondent has now referred to certain documents that indicate that the said payments had been made in respect of disputes raised by the petitioner, which were referred to the Arbitral Tribunal and it is submitted that the only sum paid by the respondent for “Ramp/Bridge over Chackai Canal and Car Parking” (the said works) was the sum of ₹18,00,396/-.

5. Although, in an enforcement proceeding, this Court is merely to enforce the award and not re-examine the same. However, the learned counsel appearing for the petitioner after seeking instructions fairly concedes that the said amount be considered towards payment of the awarded amount and not towards payment made for the work relating to “Ramp/Bridge over Chackai Canal and Car Parking”. Consequently, the respondent will not assert that the said payments had been made towards any other work and the learned counsel accepts that the only payment made by the respondent for the work relating to “Ramp/Bridge over Chackai Canal and Car Parking” is a sum of ₹18,00,396/-.

6. The respondent is bound down to its stand as indicated above.
7. In view of the above, the awarded amount is fully discharged. The petition is, accordingly, disposed of.

VIBHU BAKHRU, J

MAY 04, 2018
MK