THE HON'BLE SRI JUSTICE RAGHVENDRA SINGH CHAUHAN
AND
THE HON'BLE SRI JUSTICE T.AMARNATH GOUD

CIVIL REVISION PETITION NO.3806 OF 2017

ORDER: (per Hon'ble Sri Justice T.Amarnath Goud)

This Civil Revision Petition is filed challenging the order dated 01.06.2017 in E.A.No.428 of 2017, and also earlier order dated 02.04.2012 in E.P.No.25 of 2003 on the file of the Court of the Chief Judge, City Civil Court at Hyderabad (for short, the trial Court).

2. The petitioner is a private limited company carrying on various construction works for the Union of India, the respondents herein. The petitioner entered into an agreement on 10.04.1986 with the respondents for execution of the works of providing of Wall Claddings, Annexures and Flooring of Building No.2 at Yeddumylaram, near Shankerpally. During the execution of works, differences had arisen between the petitioner and the respondents. Therefore, Sri Justice K.Ramaswamy, retired Judge of Supreme Court, was appointed as the Arbitrator for adjudicating the disputes. On 29.04.2001, the said Arbitrator passed an Award. Its operative portion is as follows:

> "94. Accordingly, the claimant is entitled to compensation on claim No.1 for a sum of Rs.24,24,642/- with interest @ 18 per cent per annum on an amount of Rs.48,72,733/- from 1.9.1988 and on Rs.3,75,000/- from 9.11.1989 till the date of payment. On consolidated claim No.2, a sum of Rs.3,74,03,000.00 with interest thereon @ 18 per cent per annum from the date of claim till the date of realization. Claim No.4 is rejected. Claims No.7 and 15 are rejected. Claim No.8 was given up. Claim No.12 partly allowed i.e., Rs.30,000/- with interest thereon @ 18 per cent per annum from the date of the claim till the date of realization. Claim No.16 is

> rejected. Claim No.13 is allowed, i.e., a sum of Rs.11,51,700/- with interest thereon @ 18 per cent per annum from the date of recovery till the date of realisation. Claim No.17 allowed, i.e., Rs.14,14,000/- with interest thereon @ 18 per cent per annum from the date of claim till the date of realisation. Claim No.20: In view of the interest awarded in the respective claims, no separate order needs to be made. Claim Nos.7, 15, 18 and 21 stand rejected."

3. In pursuance of the said order, the petitioner filed O.P.No.3 of 2001 before this Court under Sections 14 and 17 of the Indian Arbitration Act for making the award passed by the learned Arbitrator dated 29.04.2001 as Rule of the Court by passing a decree in terms of the award with interest @ 24% per annum from the date of the decree till the date of realization with costs. This Court, by order dated 27.12.2002, allowed the OP by decreeing the award of the Arbitrator dated 29.04.2001 with interest @ 12% per annum from the date of the decree till the date of payment. In pursuance of the said order, the petitioner filed E.P.No.25 of 2003 before the trial Court for attachment of the moveables of respondent Nos.2 and 3 for realization of the amount awarded along with interest. In the EP, the petitioner filed a calculation memo dated 12.08.2011 seeking to grant interest after adding the interest to the principal amount. Hence, a question arose before the trial Court, '*whether the interest should be added to the principal from time to time and at different rests and further interest should be calculated after adding the interest to the principal, or on the principal sum alone without adding the interest amount to the principal amount'*. The trial Court came to the conclusion that the compound interest cannot be granted. Accordingly, by its order dated 02.04.2012, the trial Court held that the petitioner is entitled

to interest on the principal amount only, but not on the principal amount plus interest at different rests/intervals.

4. Challenging the said order, the petitioner filed CRP.No.3520 of 2016, and sought interest as per its calculation memo dated 12.08.2011. This Court, by order dated 25.07.2016, dismissed the said CRP, permitting the petitioner to file a review petition before the trial Court. In pursuance of the same, the petitioner filed E.A.No.428 of 2017 in EP.No.25 of 2003 seeking to review the order dated 02.04.2012. The trial Court, by order dated 01.06.2017, dismissed the same. The operative portion of the said order reads as under:

> "7. I have carefully perused the order dated 02.04.2012. The judge who passed the intermediary order has considered all the points raised by the parties in his speaking order and after having considered the catena of decisions, pronounced the orders. In view of the circumstances stated above, I am of the opinion that the said order cannot be interfered and the review petition is devoid of merits and is dismissed."

Challenging the orders dated 01.06.2017 and 02.04.2012 of the trial Court, the petitioner filed the present Civil Revision Petition.

5. Sri Mayur Mundra, the learned counsel for the petitioner, submitted that the word 'sum' for the purpose of Section 31 (7)(b) of the Arbitration and Conciliation Act, 1996 (for short, the Act), comprises of the principal amount and pre-award interest, as the Arbitral Tribunal may award. Hence, the word 'sum' means a particular amount of money which may include both 'principal' and 'interest'. He further submitted that in view of the same, the interest awarded on the principal amount upto the date of award

becomes the principal amount for the purpose of awarding future interest under the Act. In support of his argument, he has relied upon a three Judges Bench of the Apex Court in **Hyder Consulting (UK) Ltd. Vs. Governor, State of Orissa[1].**

6. Sri N.Rajeswara Rao, learned counsel appearing for Sri K.Lakshman, Assistant Solicitor General, submitted that the interest as envisaged under Section 31(7)(b) of the Act would apply only on the principal amount awarded by the Arbitral Tribunal. He further submitted that awarding of interest on interest from the date of award is not permissible under the Act. Hence, the trial Court rightly rejected the calculation memo filed by the petitioner. He further submitted that the law laid down by the Apex Court in **Hyder Consulting (UK) Ltd**'s case (supra) is subsequent one and is not applicable to the present case. Moreover, the awarded amount has been paid to the decree holder, upon which, the consequential attachment order passed earlier against the judgment debtors is lifted by the trial Court in another E.A. Thus, nothing survives in the present litigation.

7. The short point in the present revision is *'whether the petitioner is entitled to interest on the amount awarded, which includes principal and interest, by the Tribunal?*

8. In **Hyder Consulting (UK) Ltd**'s case (supra), a three Judges Bench of the Apex Court, while dealing with the similar issue, held that *"the Arbitral Tribunal may award interest on the sum directed to*

[1] (2015) 2 SCC 189

be paid by the Award, meaning a sum inclusive of principal sum adjudged and the interest." Though the said decision is favourable to the petitioner, the same has no retrospective effect. Therefore, it cannot be applied to the case of the petitioner. For, on the date of pendency of the *lis* of the petitioner, the law prevailing was that *'an award of interest on interest from the date of award is not permissible'* as per the earlier decision of the Apex Court in **State of Haryana Vs. S.L. Arora & Co.[2].** Therefore, the trial Court rightly followed the same in its EP order.

9. Insofar as the review order in EA is concerned, the trial Court, though logically has not given a proper reasoning, the result of the order dismissing the EA is correct. Hence, we see no ground to interfere with the orders of the trial Court.

10. For the reasons stated above, the Civil Revision Petition is dismissed. Miscellaneous petitions pending, if any, shall stand dismissed. There shall be no order as to costs.

RAGHVENDRA SINGH CHAUHAN, J

T.AMARNATH GOUD, J

Date: 31.01.2019
TJMR

[2] (2010) 3 SCC 690