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

+ ARB. A. (COMM.) 32/2019 & IAs. 14734/2019, 14735/2019,
14736/2019 and 14737/2019

NATIONAL HIGHWAYS AUTHORITY OF
INDIA

..... Petitioner

Through: Mr. Ankur Chibber and Mr. Bhanu
Gupta, Advs.

versus

SSANGYONG ENGINEERING & CONSTRUCTION CO.
LTD

..... Respondent

Through: Mr. Navin Kumar, Ms. Rashmeet
Kaur, Ms. Arpana Majumdar and Ms.
Priya Goyal, Advs.

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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22.10.2019

IAs. 14736/2019 and 14737/2019 (for exemptions)

Exemptions allowed subject to all just exceptions.

Applications stand disposed of.

IA 14735/2019 (for delay)

This is an application filed by the petitioner seeking condonation of
24 days delay in re-filing the petition.

For the reasons stated in the application delay of 24 days in re-filing
the petition is condoned.

Application stands disposed of.

ARB. A. (COMM.) 32/2019

This petition has been filed by the petitioner challenging the order

dated May 18, 2019 passed by the Arbitral Tribunal.

Mr. Ankur Chhibber, learned counsel appearing for the petitioner states, appropriate remedy for the petitioner is to file a petition under Section 34 of the Arbitration and Conciliation Act, 1996 (Act in short). He states, in fact, the petitioner had filed a petition under Section 34 of the Act, however on an objection raised by the Registry that it should be a petition under Section 37 of the Arbitration and Conciliation Act, necessary amendments have been carried out.

According to him, a petition under Section 37 of the Act is not maintainable in view of the judgment of the Supreme Court in the case of ***Indian Farmers Fertilizers Cooperative Limited v. Bhadra Products 2018 2 SCC 534***. Mr. Chibber, states that he wishes to withdraw this petition and pursue the petition under Section 34 of the Act as has been filed in the Registry. If that be so, liberty is with the petitioner to pursue the petition under Section 34 of the Act. At the same time liberty is with the respondent to raise any objection including the maintainability of the petition on any ground except filing of the petition under Section 34 of the Act.

In the peculiar facts of this case, Registry of this court shall return the papers of this petition to the petitioner.

Petition stands disposed of.

IA. 14734/2019 (for stay)

Dismissed as infructuous.

V. KAMESWAR RAO, J

OCTOBER 22, 2019/jg