

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

TA 874/2021

Date of decision:05/12/2022

The Commissioner, Bruhat Bengaluru Mahanagar Palika and others

.....Petitioners

Vs.

M/s Alfa Therm Ltd. And another

.....Respondents

CORAM HON'BLE MS. JUSTICE NIDHI GUPTA

Present:- Mr. Pushpinder Kaushal, Advocate for the petitioners

 Mr.Saurabh Goel,Advocate with
 Ms.Samridhi Jain,Advocate and
 Ms.Shivani Sahni,Advocate for the respondent no.1.

Nidhi Gupta, J.

This is a transfer petition seeking the transfer of Objection
Petition case No. ARB/09/2020 dated 18.3.2020 (Annexure A-2) titled as
'Alfa Therm Ltd. Vs. Bruhat Bengluru Mahanagar Palika' filed by the
respondent no.1 herein against the Arbitral Award dated 26.12.2019
(Annexure A-1) passed by the Arbitral Tribunal, pending in the Court of Ms.
Vani Gopal Sharma, ADJ, Panchkula, to a court of competent jurisdiction at
Chandigarh where the Objection petition case No. ARB/450-2020 dated
18.6.2020 (Annexure A-3) u/s 34 of the Arbitration and Conciliation
(Amendment) Act,2019 (hereinafter referred to as 'the Act'), filed by the

petitioners against the same aforementioned Arbitral Award dated 26.12.2019 passed by the Arbitral Tribunal is pending.

Learned counsel for the petitioners submits that the respondent/claimant filed petition under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 for conciliation before the Haryana Micro & Small Enterprises Facilitation Council, set up under the Haryana Micro & Small Enterprises Facilitation Council Rules, 2007. When the conciliation proceedings failed the matter was referred to the Sole Arbitrator, Sh.M.M.Bedi, D&SJ (Retd.) for arbitration under Section 3 of the Act, who conducted the arbitration proceedings at Panchkula. Vide Award dated 26.12.2019 the claim petition filed by the claimant/respondents was allowed. Thereafter, the claimant/respondents filed Section 34 Objections in Panchkula being case No. ARB/09/2020 dated 18.3.2020 filed before the learned District Judge, Panchkula where it is now pending. Simultaneously, the petitioners challenged the award by way of filing Objections under Section 34 of the Act, being ARB/450-2020 dated 18.6.2020 before the learned District Judge, Chandigarh.

Learned counsel for the petitioners submits that by way of present petition they are seeking transfer of aforesaid case No. ARB/09/2020 dated 18.3.2020 (Annexure A-2) titled as 'Alfa Therm Ltd. v Bruhat Bengluru Mahanagar Palika' from the Courts at Panchkula to a court of competent jurisdiction at Chandigarh where the objections filed by the petitioners being case No. ARB/450-2020 dated 18.6.2020 (Annexure A-3) are pending.

Learned counsel for the respondents objects to the same and submits that objections under Section 34 of the Act can only be filed where

the seat of arbitration is. Admittedly, seat of arbitration between the parties was in Panchkula.

I have heard learned counsel for the parties. Section 42 of the Arbitration and Conciliation Act, 1996 reads as follows: -

“42. Jurisdiction. - Notwithstanding anything contained elsewhere in this Part or in any other law for the time being in force, where with respect to an arbitration agreement any application under this Part has been made in a Court, that Court alone shall have jurisdiction over the arbitral proceedings and all subsequent applications arising out of that agreement and the arbitral proceedings shall be made in that Court and in no other Court”.

There is no doubt regarding the legal position on this issue whereby it is established that objections under Section 34 of the Act are only maintainable where the seat of arbitration was.

At this juncture, learned counsel for the petitioners submits that he would be satisfied if the objections filed by the petitioners bearing ARB/450-2020 dated 18.6.2020 (Annexure A-3) are transferred from Chandigarh to Panchkula.

In order to save multiplicity of litigation as well as conflicting judgments, as also to ensure compliance with the mandate of law, this oral prayer of the learned counsel of the petitioners is being accepted, and accordingly, it is directed that the objection petition bearing case No. ARB/450-2020 dated 18.6.2020 u/s 34 of the Arbitration and Conciliation (Amendment) Act, 2019 filed by the petitioners against the Arbitral Award dated 26.12.2019 passed by the Arbitral Tribunal shall stand transferred from the Court concerned at Chandigarh to the Court concerned at Panchkula where objection petition bearing case No. ARB/90/2020 dated 18.3.2020 is pending.

Accordingly, the District & Sessions Judge, Chandigarh is directed to send the records of the Objection case No. ARB/450-2020 dated 18.6.2020 to D&SJ Panchkula, by 30.1.2023. Further D&SJ, Panchkula is directed to assign the said case to the Court concerned where objection petition bearing Case No. ARB/09/2020 is pending adjudication, and both parties are directed to appear before the Id. ADJ, Panchkula in relation to the above said Objection Petitions on 15.2.2023.

Disposed of in the above terms.

05.12.2022
Joshi

(Nidhi Gupta)
Judge

Whether speaking/reasoned
Whether reportable

Yes
Yes/No