

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**CM-3741-42-CII-2022 in /and
CR-3455-2021 (O&M)
Date of decision : April 08, 2022**

STATE OF HARYANA

.....Petitioner

Versus

**M/S VICHITRA PRESTRESSED CONCRETE UDHYOG PVT LTD AND
OTHERS**

....Respondents

CORAM:- HON'BLE MRS. JUSTICE LISA GILL

Present: Mr. Harish Nain, AAG, Haryana.

LISA GILL, J.

CM-3741-CII-2022

Prayer in the application is for placing on record Annexures P11 to P15. Same are taken on record subject to just exceptions. Filing of certified copies thereof is exempted.

Application is disposed of.

CM-3742-CII-2022

Prayer in the application is for preponement of hearing of the case.

For the reasons mentioned in the application as well as arguments addressed, hearing of the petition is preponed from 12.07.2022 for today itself.

Accordingly, application is disposed of.

CR-3455-2021 (O&M)

Prayer in this revision petition is for setting aside order dated 24.02.2021 passed by the learned Arbitrator whereby preliminary issue of

maintainability of two claim petitions by the claimants in the single arbitration matter has been permitted. Copy of detailed order dated 24.02.2021 has been later placed on record as Annexure P9. It is submitted that work of 'Providing Water Supply Scheme at Sohna Town, District Gurugram, Design, Construction, Erection, Testing and Commissioning of complete raw water pumping station at Budhera and Rising Main of PSC pipe upto treatment plan near village Ghamroj on turnkey basis, comprising of inlet channel 2 nos. storage and sedimentation tanks, pump house, raw water pumping machinery complete in all respect including transformer, DG set and all electrical, mechanical instrumentation and other works contingent thereto, boundary wall, staff quarter, providing, laying and testing of PSC pipe, rising main surge control devices, including operation and maintenance for 3 years after defect liability period of 12 District Gurgaon, Haryana', was allotted to the Joint Venture of M/s Jain Construction Company and M/s Vichitra Prestressed Concrete Udyog Private Limited. Allotment letter was issued to respondents No. 1 and 2 on 03.12.2019. Dispute admittedly arose between the parties. Vide order dated 28.08.2020, passed by the Engineer-in-Chief, Haryana Public Health Engineering Department, Panchkula, Dr. Bharat Bhushan Parsoon, Retd. Judge of this High Court was appointed as the Sole Arbitrator. Copy of the order dated 28.08.2020 is attached as Annexure P2.

Learned counsel for the petitioner submits that there is a specific note in order dated 28.08.2020, appointing the Arbitrator, that both partners of the Joint Venture i.e. M/s Jain Construction Company and M/s Vichitra Prestressed Concrete Udyog Private Limited are requested to file a consolidated claim under the signatory authority of the Joint Venture before the Arbitrator as the work in dispute was executed by the Joint Venture and under the same agreement.

However, separate claims, it is submitted, were raised before the learned Arbitrator by both the entities comprising the Joint Venture. Aggrieved therefrom, an objection was raised by the present petitioner before the learned Arbitrator seeking dismissal of both the claims. Accordingly, preliminary issue was framed by the learned Arbitrator in this regard as to whether two separate claim petitions independent of each other in view of Joint Venture being the contracting party with the respondent, are maintainable. Learned Arbitrator after giving due opportunity to the parties and examining the matter, observed that as scope of work is clearly separate and distinct and separate bills were raised by both the parties to the extent of work executed by them with the same being duly accepted by the applicant- State notwithstanding the fact of it being a Joint Venture of both claimants, there was nothing unjustified in the claims being filed separately by both the entities. Aggrieved therefrom, present petition has been filed.

Learned counsel for the petitioner has vehemently argued that keeping in view the specific note appended with order dated 28.08.2020 appointing the Sole Arbitrator, it is not open to the Arbitrator to have accepted separate individual claims from the two entities.

Heard learned counsel for the petitioner and have gone through the file with his able assistance.

At the outset, it is to be noted that a copy of the agreement executed between the parties is not on record and neither has it been produced, during the course of hearing. Insofar as allotment of work to the Joint Venture of respondents No. 1 and 2 is concerned, it is not in dispute. Though it is stated that it is the Joint Venture of respondents No. 1 and 2 to whom the work was allotted, it is not denied that there is no third separate entity which was created by both the

respondents which had an identity separate from respondents No. 1 and 2 as such. It was a case of both respondents No.1 and 2 working together as a Joint Venture to complete the work as allotted. It is in these circumstances that learned Arbitrator has observed that once the State, notwithstanding the fact of a Joint Venture of both claimants accepted their independent status and entertained their separate bills in terms of separate and distinct scope of work in tune with Article 3 of their Joint Venture agreement, proceeded to make separate payments in their separate accounts after deducting tax at source distinctly i.e. giving credit of the same to their respective income tax account separately, there was no impediment in filing of two separate claims and entertainment thereof by the Arbitrator. It is further observed that petitioner had been unable to show as to how it had been prejudiced even remotely by filing of separate claim petitions by the claimant - respondents. Learned counsel for the petitioner is unable to point out the same even at this stage.

Furthermore, it is relevant to note that it is a settled position of law that there has to be minimal interference and judicial intervention in arbitral proceedings. No such ground of exceptional rarity has been pointed out by learned counsel for the petitioner, which calls for any interference by this Court at this stage. In case, any kind of prejudice etc. is ultimately shown to have been caused to the petitioner by the course so adopted, it would be open to the petitioner to take up all pleas at the relevant time before the competent authority.

Revision petition is accordingly dismissed.

**(LISA GILL)
JUDGE**

April 08, 2022

rts	Whether speaking/reasoned	:	Yes/No
	Whether reportable	:	Yes/No