



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

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Date of Decision: 19.12.2023

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O.M.P.(MISC.)(COMM.) 674/2023 and I.A. 25619/2023

ZILLION INFRAPROJECS PVT.
LTD THROUGH ANANT SAXENA

..... Petitioner

Through: Mr. Sumit Kumar, Ms. Kumari
Supriya and Mr. Vivek Sharma,
Advocates.

Versus

FAB-TACH WORKS & CONSTRUCTONS
PVT. LTD..

..... Respondent

Through: Mr. Seemant K. Garg and Mr.
Krishan Kumar, Advocates.

CORAM:
HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

JUDGMENT (ORAL)

1. The present petition has been instituted under Section 29A(4) of the Arbitration & Conciliation Act, 1996 (hereinafter, referred to as '*A&C Act*') seeking to extend the mandate of the Arbitral Tribunal (hereinafter, referred to as '*AT*') for conclusion of the arbitral proceedings and making of the arbitral award.

2. Briefly, the facts in a nutshell are that the petitioner was awarded a Works Contract by M/s Bridge & Roof India Ltd. vide Letter of Intent dated 20.03.2014. Pursuant to the same, the petitioner issued a letter of intent dated 23.04.2014 to the respondent to carry out the work of transportation of materials from storage yard to work site alongwith ancillary works on back-

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to-back basis. Disputes having arisen between the parties, the respondent invoked arbitration on 17.08.2015. On 14.09.2015, the Sole Arbitrator entered into reference. The record further reveals that after completion of pleadings, the AT was reconstituted on 30.11.2016 and the arbitral proceedings continued.

3. Admittedly, the matter has reached the fag end and was listed for final arguments on 14.12.2023, when the present petitioner (respondent in the arbitral proceedings) preferred an application for deferment of the proceedings on the ground that he intended to move the present petition seeking extension of the mandate of the AT. The respondent has opposed the request and while referring to the earlier procedural order passed on 18.05.2018, has contended that no extension is required as the arbitration was invoked prior to the coming into force of Arbitration & Conciliation (Amendment) Act, 2015.

4. Petitioner contends that the petition is preferred by way of abundant caution.

5. Notably, the Arbitration & Conciliation (Amendment) Act, 2015 came into force on 23.10.2015. Section 26 of the Amendment Act provided that the Amendment Act would not apply to the arbitral proceedings that had already commenced in accordance with Section 21 of the Principal Act, before the commencement of the Amendment Act, unless the parties otherwise agreed. In other words, the applicability of the Amendment Act was made prospective unless the parties agreed for its retrospective application.

6. The question that arises for consideration is as to whether Section 29A and the time limits prescribed therein would apply to arbitral



proceedings that had commenced prior to coming into force of the Arbitration & Conciliation (Amendment) Act, 2015.

7. It is pertinent to note that in the Principal Act, no time limits were laid down for making of an arbitral award and such time limits were laid down for the first time by way of Section 29A as added vide the Arbitration & Conciliation (Amendment) Act, 2015.

8. The commencement of arbitral proceedings is relatable to Section 21 of the Act. In the usual course, the arbitral proceedings in respect of a particular dispute commences on the date on which a request for reference of dispute to the arbitration is received by the respondent, unless otherwise agreed by the parties. Concededly, the arbitral proceedings commenced prior to coming into force the Arbitration & Conciliation (Amendment) Act, 2015.

9. As such, neither Section 29A nor the time limit prescribed therein would be applicable to the present arbitral proceedings. Additionally, none of the parties have any objection to the continuation of the arbitration proceedings. The issue raised being only academic in nature, is answered accordingly.

10. The petition alongwith pending application is disposed of accordingly, albeit with a request to the AT to conclude the proceedings expeditiously.

MANOJ KUMAR OHRI
(JUDGE)

DECEMBER 19, 2023/rd