

IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH

2024:PHHC:170463-DB



(110)

LPA-3030-2024(O&M)
Date of Decision: 18.12.2024

OK Play India Ltd.

--Appellant

Versus

State of Haryana & others

--Respondents

**CORAM:- HON'BLE MR. JUSTICE G.S. SANDHAWALIA.
HON'BLE MRS. JUSTICE MEENAKSHI I. MEHTA.**

Present:- Mr. G.S. Bedi, Advocate with
Mr. Pawandeep Singh, Advocate and
Mr. Rahul Rohilla, Advocate for the appellant.

Mr. Ankur Mittal, Addl. A.G., Haryana with
Mr. Saurabh Mago, DAG, Haryana.

G.S. SANDHAWALIA.J (Oral)

1. The present appeal questions the judgement of the learned Single Judge dated 17.09.2024 passed in CWP-30227-2019, whereby learned Single Judge has relegated the writ petitioner to his remedy of arbitration as provided as per the terms and conditions of the agreement executed between the parties.

2. Learned Single Judge came to the conclusion that the question of inter se liability would be disputed questions of fact which would require to be ascertained as conflicting arguments were being raised with respect to the understanding between the parties and therefore evidence had to be led as there was also the issue of the condition regarding the terms of the supply period and the schedule which had to be adhered to in the facts and circumstances of the case.

3. The writ petition was filed in the year 2019 questioning the discharge of additional liability towards the Sales Tax/VAT as result of the enhancement of the tax slab and apparently the defence of the State was on account of the delay, the appellant was liable. The enhanced rate of taxation thus became payable by the appellant, which is contested by the said appellant. In such circumstances, we had passed order on 11.12.2024, which reads as under:-

*“Learned Single Judge has relegated the parties to arbitration in terms of the contract and the Arbitrator is to be an officer appointed by the Haryana Government, which in any case, cannot be done, in view of the judgement of the Apex Court in **Perkins Eastman Architech DPC & another Vs. HSSC (India) Ltd., 2019 SCC Online SC 1517.***

In such circumstances, we are of the considered opinion that rather than relegating the parties to another round of litigation for appointment of Arbitrator, it would be appropriate that an Arbitrator is appointed by this Court.

Mr. Mittal prays for time to take instructions regarding this aspect.

To come up for the said purpose on 18.12.2024.”

4. The consent of both the parties has now been received and Mr. Mittal appearing for the State has received intimation that if, this Court appoints an Arbitrator as it would cut short the necessity of filing a petition for appointment of Arbitrator and would help in resolving the dispute at the earliest.

5. Keeping in view the consensus arrived at between the parties, we are of the considered opinion that Justice Virender Singh, Chief Justice (Retd.), Kothi No.233, Sector 11 A, Chandigarh, Ph. No.9431115601, be appointed as Arbitrator to adjudicate upon the disputes and differences

between the parties. Necessary declaration as required under Section 12(5) of the Arbitration and Conciliation Act, 1996 be called from the proposed Arbitrator by way of e-mail and be placed on record. In case the declaration as sought is not received or the Arbitrator expresses his inability to enter into the arbitration proceedings, liberty is granted to the parties to apply for appointment of fresh Arbitrator.

6. The appeal is disposed of in the above terms.

(G.S. SANDHAWALIA)
JUDGE

18.12.2024
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(MEENAKSHI I. MEHTA)
JUDGE

Whether speaking/reasoned:	Yes/No
Whether Reportable:	Yes/No