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

\+ **FAO (COMM) 14/2024 & CM Appls.3878-79/2024**

M/S MAVERICK INNOVATION PVT. LTD. ..... Appellant

Through: Appearance not given.

versus

BPTP PVT. LTD. ..... Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU
HON'BLE MS. JUSTICE TARA VITASTA GANJU

O R D E R

% **22.01.2024**

1. The appellant has filed the present appeal impugning an order dated 06.12.2023 (hereafter '**the impugned order**') passed by the learned Commercial Court allowing *OMP (COMM) No. 34/2023* captioned ***BPTP Private Limited v. M/s Maverick Innovation Private Limited.***

2. The said application *(OMP (COMM) No. 34/2023)* was filed by the respondent under Section 34 of the Arbitration and Conciliation Act, 1996 (hereafter '**the A&C Act**') impugning an Arbitral Award dated 15.10.2022 (hereafter '**the impugned award**') rendered by an Arbitral Tribunal comprising of a Sole Arbitrator (hereafter '**the Arbitral Tribunal**'). The impugned award was rendered in the context of the disputes that had arisen between the parties in connection with the Service Provider Agreement (hereafter '**the Agreement**') dated 06.01.2021. The appellant's claims were allowed and the Arbitral Tribunal entered an award for an amount of

₹6,36,654/- (including interest); costs of ₹77,925/-; and *pendente lite* and future interest in accordance with provisions of Section 16 of the Micro, Small and Medium Enterprises Development Act, 2006 (hereafter '**the MSMED Act**').

3. The appellant had raised certain invoices for the services rendered in terms of the Agreement and claimed that same were not paid in full. Accordingly, the appellant had raised a claim in respect of the unpaid amount.

4. It is the respondent's case that the parties had entered into negotiations which culminated in a settlement whereby the appellant agreed to accept 50% of the outstanding amount as full and final settlement of its dues. Admittedly, the appellant had signed a letter which recorded that the parties had settled the total billing of ₹11,80,000/- at 50 % of the said amount – ₹5,90,000/-. Admittedly, receipt of the said amount was acknowledged by the appellant. Thus, according to the respondent no further amount was payable to the appellant.

5. The Arbitral Tribunal did not accept the respondent's plea for the reasons that (a) the respondent had claimed the GST on the bills raised by the appellant as a part of its input credit, and (b) there was no issue regarding the quality of services provided by the appellant.

6. The relevant reasoning in the Arbitral Award, as recorded in the impugned order is set out below:

> *"D. The respondent has taken the defence that the respondent paid an amount of Rs. 5,90,000/- as full and final settlement against total invoice billing of Rs. 11,80,000/- raised by the claimant. It was also the admitted*

position that the respondent has already claimed GST input on total billing of claimant and there was no issue regarding the quality of the services provided by the claimant as the respondent itself terminated the services of respondent vide email dated 11.01 .2022 and thanked the claimant for its efforts and services during the period of association with the claimant. Therefore, the plea taken by respondent for not paying the legally due amount of the claimant in lieu of one sided full and final settlement is not legally tenable here."

7. The learned Commercial Court set aside the impugned award on the ground that it was vitiated by patent illegality. The learned Commercial Court found that there was no dispute that the parties had entered into the settlement as claimed by the respondent.

8. The Statement of Claims filed by the appellant, (claimant before the Arbitral Tribunal) did not disclose the settlement arrived at between the parties. There was no averment in the Statement of Claims assailing the said Settlement on the ground that the same was either under coercion or undue influence. More importantly, the Arbitral Tribunal has not returned any finding to the aforesaid effect.

9. The reasoning that respondent had availed the input credit in respect of the GST reflected in the bills raised by the appellant, related to respondent's liability to pay GST under the relevant statute and did not, in any manner, vitiate the settlement agreement.

10. In the light of the aforesaid facts, the learned Commercial Court found that the impugned award was liable to be set aside.

11. The learned counsel appearing for the appellant does not dispute any

of the material facts. There is no dispute that the settlement was signed by the appellant. The appellant has also not produced the said document in the present appeal.

12. There is also no dispute that the Statement of Claims – which has also not been filed along with the present appeal – did not mention the settlement agreement raised or raised any issue regarding the same.

13. Further, as noted above, the Arbitral Tribunal has not even addressed the issue as to why the said settlement agreement is void or not binding.

14. In view of the above, we find no infirmity with the impugned order.

15. The appeal is accordingly dismissed. All pending applications are disposed of.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

JANUARY 22, 2024/r

Click here to check corrigendum, if any