



\$~17

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

+ **FAO(OS) (COMM) 284/2022 & CM APPL. 42754/2022**

NATIONAL HIGHWAY AUTHORITY OF INDIA

..... Appellant

Through: Mr Ankur Mittal, Mr Abhay Gupta,
Mr Ankur Saboo and Mr S.
Chakraborty, Advocates.

versus

**M/S IRB AHMEDABAD VADODRA SUPER EXPRESS
TOLLWAYS PVT. LTD**

..... Respondent

Through: Mr Atul Nanda, Senior Advocate with
Ms Rameeza Hakeem, Mr Saket
Sikri, Mr Anirudh Bakhru, Ms Devika
Mohan, Ms Sharu Shriyam Singh, Ms
Pragya Gautam, Ms Teresa R. D.
Aulat, Mr Sarthak Sachdev and Ms
Pragya Singh, Advocates.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

13.03.2024

%

[Physical Hearing/Hybrid Hearing (as per request)]

1. The record would show that on 28.02.2024, we had heard Mr Ankur Mittal, learned counsel, who appears on behalf of the appellant/National Highway Authority of India [in short "NHAI"], albeit in the opening.
2. To be noted, this appeal has been preferred by the appellant/NHAI against the judgment dated 04.07.2022 passed by the learned Single Judge, whereby, its petition directed against the interim award dated 14.10.2021 was dismissed.

FAO(OS) (COMM) 284/2022

Page 1 of 3



3. We were, told at the previous hearing that the arbitral tribunal had heard final arguments in the matter and reserved orders.

3.1 In other words, the arbitral tribunal, we are told, will now render a final award.

4. During the proceedings held on 28.02.2024, what emerged is that certain aspects adverted to in the interim award would crystallize and/or take a firm shape one way or the other when the final award is rendered by the arbitral tribunal.

5. Given this position, it was put to counsel for the parties whether it would serve any purpose, at this juncture, to examine the tenability of the judgment passed by the learned Single Judge in the instant appeal at this juncture, as the position may well change in the final award.

6. Counsel for the parties have returned with instructions. It is agreed that the appeal can be disposed of with the following directions:

(i) In case the appellant/NHAI is aggrieved by the final award rendered by the arbitral tribunal, it will have liberty to assail the correctness of the final award without being burdened by observations made by the learned Single Judge in the impugned judgment dated 04.07.2022.

(ii) Since we have not dealt with the merits of the matter, it will be open to the appellant/NHAI to raise all legally viable contentions in appropriate proceedings, if so advised.

(iii) As indicated above, if the appellant/NHAI is aggrieved by the final award and it intends to assail the same by way of action under Section 34 of the Arbitration and Conciliation Act, 1996, the defence of limitation will not come in its way concerning the interim award dated 14.10.2021.



7. Needless to emphasise, the rights and contentions of both parties are kept open.
8. Parties will act based on the digitally signed copy of the order.
9. The appeal is disposed of in the aforesaid terms. Consequently, the pending application shall stand closed.

RAJIV SHAKDHER, J

AMIT BANSAL, J

MARCH 13, 2024/at

[Click here to check corrigendum, if any](#)