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

+ **FAO (COMM) 247/2023 and CM APPL. 62341/2023**

**KRISHIV POLY PRODUCTS LLP**

..... Appellant

Through: Mr Madhav Sinhal, Mr Abhishek  
Kedia and Mr Tanmay Mehta,  
Advocates.

versus

**M/S MDP ENTERPRISES & ORS.**

..... Respondents

Through: Mr Rahul Sharma, Mr Swapnil Jain  
and Mr Rishav Sharma, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE VIBHU BAKHRU**

**HON'BLE MS. JUSTICE TARA VITASTA GANJU**

**ORDER**

**29.01.2024**

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1. The appellant has filed the present appeal impugning an order dated 21.08.2023 (hereafter '**the impugned order**') whereby the respondents' application under Section 8 of the Arbitration and Conciliation Act, 1996 (hereafter '**A&C Act**') was allowed and the parties were referred to the arbitration.

2. Consequently, the proceedings in the suit preferred by the appellant [*Krishiv Poly Products LLP v. MDP Enterprises & Ors.: CS(COMM) 362/2022*] was terminated.

3. In terms of Section 37(1) of the A&C Act, an appeal would lie against an order recusing to refer the parties to arbitration under Section 8 of the A&C Act and no appeal would lie against an order referring the parties to arbitration. In terms of proviso to Section 13(1A) of the Commercial Courts Act, 2015 (hereafter '**the Commercial Courts Act**'), an appeal under the



Commercial Courts Act would lie only against the orders that are, *inter alia*, enumerated under Section 37 of the A&C Act.

4. The contention that an appeal would lie under Section 13(1A) of the Commercial Courts Act notwithstanding that the orders passed by the Commercial Court is not one of the orders enumerated under Section 37 of the A&C Act, is erroneous. The issue is no longer *res integra* and is covered by the decision of the Supreme Court in ***Kandla Export Corporation & Anr. v. OCI Corporation & Anr.: (2018) 14 SCC 715***.

5. The appeal is, accordingly, dismissed. The pending application is also disposed of.

**VIBHU BAKHRU, J**

**TARA VITASTA GANJU, J**

**JANUARY 29, 2024**  
**RK**