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

+ **W.P.(C) 12110/2024**

EMERALD INDUSTRIES

.....Petitioner

Through: Mr. Aslam Ahmed, Mr. Rohit Jain,
Ms. Ankita Sharma, Mr. Harilal S.,
Mr. Zeeshan Haider and Ms. Kailashi
Uday Kapoor, Advocates.

versus

TATA ALDESA JV

.....Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE SANJEEV NARULA

ORDER
02.09.2024

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1. The present writ petition under Articles 226 and 227 of the Constitution of India, 1950 impugns order dated 22nd April, 2024 read along with order dated 24th May, 2024¹ passed by the Arbitral Tribunal.
2. Through the first impugned order dated 22nd April, 2024, the Arbitral tribunal decided an application on behalf of the claimant (Petitioner herein), seeking leave of the Tribunal to file additional documents, some of which were third party documents – being calculations and bills which were being filed to justify the claims of the Petitioner. Upon consideration, the Tribunal noted that although the application was filed after the commencement of final arguments in the matter, the same would be taken on record, barring

¹ “Impugned orders”



the third party documents and subject to payment of cost of Rs. 25,000/- to be paid by the Petitioner to the Respondent. Subsequently, the Petitioner preferred another application seeking modification of the impugned order dated 22nd April, 2024. The said application was also considered by the Arbitral Tribunal and through order dated 25th May, 2024, the following order was passed:

“6. We have considered the submissions of Mr. Malhotra. Third-party documents run in to hundreds of pages and relate to different business enterprises. In case these documents are permitted to be taken on record at this stage they will completely put the hands of the clock back and the trial will have to be re-started. The third-party documents were in the power and possession of the claimant and could have been filed along with the SOC as several other documents were filed. Suddenly after the cross examination of the witnesses was over, the claimant seems to be struck with the realisation that it would need to support his case with aforesaid additional documents.

7. In view of the aforesaid, we are not inclined to take on record third party documents even though as stated by the learned counsel for the claimant, he had not given up the plea seeking leave for placing them on record.”

3. Mr. Aslam Ahmed, counsel for the Petitioner argues that the Tribunal has failed to consider that the Petitioner was seeking to bring the additional documents on record was to elucidate the Petitioner’s claims and not to amend or modified the same. The Tribunal also failed to consider that there was no wilful default on part of the Petitioner in filing the documents at an earlier stage.

4. It is also urged that the Tribunal has refused to consider the third-party documents merely for the reason that they were bulky and voluminous and therefore, this cannot be a ground for rejecting the same. Moreover, it is argued that an Arbitral Tribunal is not bound by the provisions of the Code of Civil Procedure, 1908 and as such, it is well within the jurisdiction of the



Tribunal to accept the said documents.

5. The Court has considered the aforementioned contentions but remains unpersuaded. The question of maintainability of a writ petition under Articles 226 and 227 of the Constitution, in relation to arbitration proceedings is well settled. In the present case, the impugned orders are procedural in nature, only deciding whether some documents can be taken on record by the Arbitral tribunal or not. Accordingly, in light of the decisions rendered by this Court in W.P.(C) 10027/2024 and W.P.(C) 10515/2024, the Court finds no ground whatsoever to entertain the present writ petition seeking directions to set aside the impugned order and allow the third party documents to be placed on record in the ongoing Arbitration proceedings.

6. Accordingly, the present writ petition is dismissed, along with pending application(s).

SANJEEV NARULA, J

SEPTEMBER 2, 2024

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