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

+ **ARB. A. (COMM.) 22/2025**

M/S M Y CONSTRUCTIONS

.....Petitioner

Through: Mr. Kunwar Chandresh, Ms. Poonam Prasad, Mr. Munis Nasir and Mr. Divyansh Singh, Advocates.

versus

UNION OF INDIA

.....Respondent

Through: Mr. Subhash Tanwar, CGSC with Mr. Naveen and Ms. Bhavi Garg, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

23.04.2025

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I.A. 9456/2025

1. Allowed, subject to all just exceptions.
2. Application stands disposed of.

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3. This appeal is preferred on behalf of the Appellant under Section 37(2) of the Arbitration and Conciliation Act, 1996 ('1996 Act') laying a challenge to an order dated 12.03.2025 passed by the learned Arbitrator whereby he has declined to entertain claim no. 6 in the Statement of Claim filed by the Appellant.
4. Case of the Appellant is that disputes having arisen between the parties with respect to a Work Order relating to construction of Bank's building in 3 plots at Noida. Appellant raised claims before the Respondent vide letter dated 16.11.2022 but no reply was received. In terms of Clause



25 of General Conditions of Contract, Appellant submitted the claims to Disputes Redressal Committee (DRC) in consonance with the agreement between the parties. However not being satisfied by the decision of DRC, Appellant invoked the arbitration agreement and a Sole Arbitrator was appointed by the Respondent.

5. It is the case of the Appellant that while referring the claims of the Appellant, the Competent Authority of the Respondent did not refer claim no. 6 which arose on account of levy of compensation amounting to Rs.26,63,533/-. It is submitted on behalf of the Appellant that as per its letter dated 22.03.2023, Appellant had while writing to the Chief Engineer for appointment of an independent Arbitrator under Clause 25(i) of GCC, had requested for referring 15 claims whereas only 14 were referred. Appellant thereafter filed an application under Section 16 of the 1996 Act asking the learned Arbitrator to adjudicate on claim no. 6, however, the learned Arbitrator declined to entertain the claim holding that the Arbitrator could adjudicate only those claims which are being referred by the Competent Authority and since claim no. 6 was not referred, the same could not be adjudicated. This according to the learned counsel is an erroneous understanding of the learned Arbitrator and in any event, this Court can exercising power under Section 37(2) direct the learned Arbitrator to entertain the claim. In support, learned counsel relies on the judgment of this Court in ***M.V. Omni Projects (India) Ltd. v. Union of India, through Dy. Chief Engineer/Const.-II/Northern Railway, 2024 SCC OnLine Del 7134***, more particularly, paragraph 28 thereof.

6. Issue notice.



7. Mr. Subhash Tanwar, learned CGSC accepts notice on behalf of the Respondent and opposing the appeal submits that the learned Arbitrator has rightly declined to entertain claim no. 6, which was never referred by the Competent Authority and the judgment relied on does not apply to the present case.

8. Having heard learned counsel for the Appellant, this Court is of the view that there is no merit in the contention of the Appellant. Appellant had raised 15 claims while requesting the Competent Authority of the Respondent to appoint an independent Arbitrator. The Authority in its wisdom referred only 14 claims and claim no. 6 i.e. levy of compensation was not referred. The learned Arbitrator has rightly declined to entertain the claim as it can adjudicate only those claims which are referred to it. Therefore, no interference is warranted in the impugned order. The judgment relied upon by the learned counsel for the Appellant is inapplicable to the present case. Paragraph 28 of the judgment, heavily relied on deals with the scope of reference in case of excepted matter and in this context, the Court held that whether or not any particular claim is precluded from arbitration on account of being an excepted matter is an aspect that can be gone into by the Arbitral Tribunal.

9. Accordingly, the appeal is dismissed. Liberty is however granted to the Appellant to take recourse to appropriate remedies for seeking fresh reference in case of claim no. 6, if so advised.

JYOTI SINGH, J

APRIL 23, 2025/shivam