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

+ **FAO (COMM) 208/2023 & CM No.53033/2023**

**M/S NARESH KUMAR GUPTA AND
CO. PVT. LTD.**

.....Appellant

Through: Mr. Bhupesh Narula, Mr H.L. Narula,
Mrs Rinku Narula, Mrs Poonam
Nagpal, Mr Anugrah Ekka and Mr
Kanishk Taneja, Advocates.

versus

UNION OF INDIA

.....Respondent

Through: Mr Dinesh Malik, Mr Puneet Jain,
Advs. for GNCTD along with Mr
Kailash Meena, EE, PWD.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

HON'BLE MS. JUSTICE TARA VITASTA GANJU

ORDER

04.07.2025

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1. The appellant has filed the present appeal under Section 37(1)(b) of the Arbitration & Conciliation Act, 1996 [**A&C Act**] impugning the order dated 23.08.2023 [**impugned order**] passed by the learned Commercial Court in OMP (COMM) No.208/2023 captioned ***Union of India v. M/s Naresh Kumar Gupta & Co. Pvt. Ltd.***

2. The respondent had preferred the said application [being OMP(COMM) No.13/2020] under Section 34 of the A&C Act impugning an arbitral award dated 30.05.2020 [**impugned award**] whereby a sum of ₹98,58,586/- was awarded to the appellant in respect of some of its claims.

3. The learned Commercial Court allowed the said application and set aside the impugned award on the ground that the Arbitral Tribunal had no jurisdiction to pass an award as the arbitrator was appointed unilaterally and in contravention of Section 12(5) of the A&C Act.



4. Admittedly, the issue involved in the present appeal is covered against the appellant by the decision of the Coordinate Bench of this Court in *M/s Mahavir Prasad Gupta & Sons v. Govt. of NCT of Delhi: Neutral Citation No.2025:DHC:4781-DB*. However, the learned counsel appearing for the appellant submits that the learned Commercial Court had no jurisdiction to entertain the respondent's application under Section 34 of the A&C Act as the amount in dispute was above the limit of the pecuniary jurisdiction of the learned Commercial Court. It is submitted that the appellant had raised claims – seven in numbers – quantified at ₹2,74,20,895/-.

5. The term “specified value” as defined in Section 2(1)(i) of the Commercial Courts Act, 2015 [CC Act] is set out below:

“2. **Definitions.**—(1) In this Act, unless the context otherwise requires,—

(i) “Specified Value”, in relation to a commercial dispute, shall mean the value of the subject matter in respect of a suit as determined in accordance with section 12 1 [which shall not be less than three lakh rupees] or such higher value, as may be notified by the Central Government.”

6. Sub-section (2) of Section 12 of the CC Act provides for the mechanism to determine the specified value in an arbitration of a commercial dispute. Sub-section (2) of Section 12 of the CC Act is set out below:

“12. **Determination of Specified Value.**—(1) The Specified Value of the subject-matter of the commercial dispute in a suit, appeal or application shall be determined in the following manner:—

(2) The aggregate value of the claim and counterclaim, if any as set out in the statement of claim and the counterclaim, if any, in an arbitration of a commercial dispute shall be the basis for



determining whether such arbitration is subject to the jurisdiction of a Commercial Division, Commercial Appellate Division or Commercial Court, as the case may be.”

7. It is apparent from the above that in the present case, the specified value of the commercial dispute was above ₹2,00,00,000/- (Rupees two crores) which is the limit of the pecuniary jurisdiction of the learned Commercial Court. In view of the above, the contention that the Commercial Court had no jurisdiction to entertain the respondent’s application under Section 34 of the A&C Act is merited. However, concededly, no such objection was raised by the appellant before the learned Commercial Court.

8. It is also material to note that the respondent’s application to set aside the impugned award had been rejected by an order dated 05.12.2020 by the learned Commercial Court on the ground that the application was filed beyond the period as prescribed under Section 34(3) of the A&C Act. The respondent had appealed the said order under Section 37(1)(c) of the A&C Act [being FAO (COMM) No.72/2021] before this court. The said appeal was allowed by an order dated 09.08.2021 and the respondent’s application [OMP(COMM) 13/2020] was restored before the learned Commercial Court. The appellant did not raise any objection regarding the jurisdiction of the Commercial Court to entertain the said application, even at that stage, that is, before this court in FAO(COMM) No.72/2021. It is well settled that any objection regarding the jurisdiction of the court is required to be raised at the first instance.

9. In the given facts and circumstances where it is conceded that the learned sole arbitrator constituting the Arbitral Tribunal was ineligible to act as an Arbitrator under Section 12(5) of the A&C Act, we do not consider it apposite to entertain the appellant’s objection as to the jurisdiction of the



learned Commercial Court at this stage.

10. The appeal is accordingly dismissed. Pending application is also dismissed.

VIBHU BAKHRU, J

TARA VITASTA GANJU, J

JULY 04, 2025
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