

(2009) 05 DEL CK 0314
In the Delhi High Court
Case No : OMP No. 50 of 2009

Globe Construction Co.

APPELLANT

Vs

Union of India (UOI)

RESPONDENT

Date of Decision : 11-05-2009

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 34

Citation : (2009) 05 DEL CK 0314

Hon'ble Judges : S.N. Dhingra, J

Bench : Single Bench

Advocate : G.D. Chopra, for the Appellant; Vineet Malhotra and Sanjay Kumar, for the Respondent

Final Decision : Dismissed

Judgement

Shiv Narayan Dhingra, J.—By this petition u/s 34 of the Arbitration & Conciliation Act, 1996, the petitioner has raised objections against the award dated 21.10.2008 of the learned Arbitrator.

2. Brief facts relevant for the purpose of deciding this petition are that the petitioner had executed civil work for the respondent and thereafter raised a dispute about non-payment of certain claims. This dispute was referred to the Arbitrator and learned Arbitrator after considering the pleadings and evidence of both the parties passed the award. The claim raised by the petitioner and the amount awarded by the learned Arbitrator are as under:

Claim Amount Claimed Amount Awarded Claim No. 1 - In respect of amount withheld in Rs. 24,000/- Rs. 24,000/- final bill Claim No. 2 - Amount wrongly recovered at Rs. 2,43,000/- Rs. 2,42,979/- penal rate recovery Claim No. 3 - Lesser rate paid for agreement Rs. 39,250/- Rs. 39,246/- items. Claim No. 4 - Recovery on account of Rs. 33,040/- Nil overweight Torsteel Claim No. 5 - Seeking refund of amount Rs. 3,47,293 Rs. 1,59,528/- recovered on account of rebates by the claimant Claim No. 6 - For refund of amount recovered Rs.

82,500/- Rs. 41,493/- under garb of RIS/MEI/DIS Claim No. 7 - Work done but not paid Rs. 3,60,000/- Rs. 74,756/- Claim No. 8 - Interest for delay in payment Rs. 4,72,052/- Rs. 3,19,323/- Claim No. 9 - Balance payment under Clause Rs. 6,50,000/- Rs. 4,34,116/- 10CC Claim No. 10 - Damage and Loss of Profit Rs. 21,00,000/- Rs. 2,00,000/- Claim No. 11 - Interest @ 18% w.e.f @10% of 1.12.1995 awarded amount w.e.f. 1.1.2004

3. Apart from allowing claims of the claimant to the above tune, the learned Arbitrator also awarded amount of Rs. 30,000/- to the petitioner towards cost of arbitration. Thus, the total sum awarded to the petitioner was Rs. 12,46,118/-

4. The claimant/petitioner has assailed the award against each of the claims except claim No. 4. The various grounds as stated by the claimant in its challenge are on the merits of each claim. It is settled law that while considering challenge to the award u/s 34 of the Arbitration & Conciliation Act, 1996, this Court does not act as a Court of appeal against the order of the learned Arbitrator. The Arbitrator is the final judge chosen by the parties in respect of facts and law. The Arbitrator in this case is a retired Additional Director General of CPWD, who was well versed with the civil engineering works and he has given reasons for allowing the claims either partly or in full. In respect of claim No. 7 he has given table specifying the measurements of different items which were claimed by the petitioner not having been paid and he has taken into account the amount paid and the amount as claimed by the petitioner, the rates and what was required to be paid further. Against each of the claims, the learned Arbitrator has considered all material which was placed by the petitioner and the respondent and given reasons why the particular amount was being allowed.

5. In view of the award being a speaking and reasoned award and given by an expert of its field, I consider that the award does not warrant any interference on the grounds as stated by the petitioner for challenging the award. The grounds taken by the petitioner for challenging the award do not fall within the purview of Section 34. I find no reason to entertain this petition. The petition is hereby dismissed having no force.