
(2009) 08 BOM CK 0159
In the Bombay High Court
Case No : Arbitration Petition No. 179 of 2009

Union of India (UOI)

APPELLANT

Vs

Quick Communications System Pvt. Ltd.

RESPONDENT

Date of Decision : 12-08-2009

Acts Referred:

Arbitration and Conciliation Act, 1996 — Section 31(7), 34

Citation : (2009) 08 BOM CK 0159

Hon'ble Judges : Anoop V. Mohta, J

Bench : Single Bench

Advocate : Suresh Kumar, for the Appellant; Shilpa Kapil, for the Respondent

Final Decision : Dismissed

Judgement

Anoop V. Mohta, J.—Heard finally by consent.

2. The petitioner has challenged this Award mainly u/s 34 of the Arbitration & Conciliation Act, 1996 (for short, the Act) on the ground that the Arbitrator cannot impose interest in view of Clauses 64(5) of General Conditions of Contracts (GCC). The said Clause was introduced some time in 1997. The present contract is dated 17.01.19998. The said GCC booklet was published in 1.1.1999.

3. Admittedly, the parties are bound by the agreement in all respects.

4. Though the alleged interest Clause was introduced, but admittedly it was not incorporated in the Agreement between the parties. If that is so, the submission that the Arbitrator ought not have awarded the interest in view of the bar so provided in the amended Clause is unacceptable. It is the Agreement, as noted above, which govern the Contracts. In absence of any specific and restrictive Clause of interest of this nature, I see there is no reason to interfere with the Award as passed.

5. The Apex Court has considered the Section 31(7) of the Act and observed in

Sayeed Ahmed and Co. Vs. State of U.P. and Others, , as under:

10.1 Having regard to Sub-section (7) of Section 31 of the Act, the difference between pre-reference period and pendente lite period has disappeared in so far as award of interest by arbitrator. The said Section recognises only two periods and makes the following provisions:

(a) In regard to the period between the date on which the cause of action arose and the date on which the award is made (pre-reference period plus pendente lite), the arbitral tribunal may award interest at such rate as it deems reasonable, for the whole or any part of the period, unless otherwise agreed by the parties.

(b) For the period from the date of award to the date of payment the interest shall be 18% per annum if no specific order is made in regard to interest. The arbitrator may however award interest at a different rate for the period between the date of award and date of payment.

6. The Arbitrator has ample power to grant interest within the frame work of law unless restricted or agreed otherwise. There is no other challenge raised except this, including of the rate of interest. There is no perversity or illegality. The Award is in accordance with law and the record.

7. Resultantly, the petition is dismissed. No costs.