

Narendra and Co Vs. Religare Commodities Ltd and anr

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SooperKanoon Citation : sooperkanoon.com/1099695

Court : Delhi

Decided On : Nov-25-2013

Judge : V.K.Shali

Appellant : Narendra and Co

Respondent : Religare Commodities Ltd and anr

Advocate for Def. : Mr. Rohit Puri

Advocate for Pet/Ap. : Mr. R.M. Tatia

Judgement :

* HIGH COURT OF DELHI AT NEW DELHI + FAO No.341/2011 Date of Decision
:

25. 11.2013 NARENDRA & CO Appellant Through: Mr. R.M. Tatia, Advocate.
versus RELIGARE COMMODITIES LTD & ANR Through: Respondents Mr.
Rohit Puri, Advocate. CORAM: HONBLE MR. JUSTICE V.K. SHALI V.K. SHALI,
J.

(ORAL) 1. I have heard the learned counsel for the appellant.

2. It has been contended that the learned arbitrator as well as the learned trial court while considering the objections of the appellant has failed to take into account the fact that the appellant was entitled to a sum of Rs. 1,44,926.92 by way

of refund of VAT while as the appellant has been directed to be paid by the arbitrator only a sum of Rs.10,958.40 on account of the same. In this regard, the learned counsel for the appellant sought to draw the attention of the court to Annexure P-2 which is the contract note issued by the Religare Commodities Limited. The learned counsel has also drawn the attention of this court to the endorsements made at the bottom of the said contract note that the contract is subject to the Rules, Bye-laws and Regulations and usages of National Commodity & Derivatives Exchange Limited, Mumbai as enforced from time to time. On the basis of this, the learned counsel has sought to urge that the appellant was entitled to a higher amount of refund of VAT amounting to Rs.1,44,926.92/-. This fact has been refuted by the learned counsel for the respondent who has contended that the appellant is trying to enter into the question of re-appreciation of evidence which has been not only rejected by the trial court but also cannot be entertained by this court in exercise of powers under Section 37 of the Arbitration and Conciliation Act, 1996 while considering the appeal.

3. I have considered the rival contentions and find myself in agreement with the contention urged by the learned counsel for the respondent that the appellant is trying to enter into an arena of reappreciation of evidence recorded before the learned arbitrator with regard to the refund of VAT. This cannot be permitted to be done in an appeal by this court. The trial court has noted the fact that if at all there was an error with regard to the computation of VAT as was alternatively sought to be urged, the said arithmetic error with regard to the computation could be corrected by the arbitrator under Section 33 of the Arbitration and Conciliation Act, 1996. The submissions made by the learned counsel for the appellant do not fall in any of the sub-clauses as envisaged under Section 34 of the Arbitration and Conciliation Act, 1996. Accordingly, the appeal filed against the impugned judgment is totally misconceived and the same is dismissed. V.K. SHALI, J.

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