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Tripti De vs.union of India

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Court : Delhi

Decided On : Dec-19-2018

Appellant : Tripti De

Respondent : Union of India

Advocate for Pet/Ap. : Mr. Sumit R. Sharma

Judgement :

$~22 * + IN THE HIGH COURT OF DELHI AT NEW DELHI FAO1282017 & C.M. No.10459/2017 TRIPTI DE ..... Appellant Through: Mr. Sumit R. Sharma, Advocate. versus UNION OF INDIA Through: None. ..... Respondent CORAM: HON'BLE MR. JUSTICE VINOD GOEL % 1.

ORDER
1912.2018 The impugned order dated 09.12.2016 passed by the court of the learned Additional District Judge-04, Patiala House Courts, New Delhi, (ADJ) in Arbitration Case No.20350/2016 titled as UOI Vs. Tripti De by which the delay in filing the petition under Section 34 (3) of the Arbitration and Conciliation Act, 1996 (the Act) was condoned, is the subject-matter of challenge in this appeal.

2. Learned counsel for the appellant contends that admittedly copy of the impugned award dated 19.04.2016 was received by the respondent on 30.05.2016 whereas the petition under Section 34 of the Act was filed on 02.12.2016, that is, after expiry of limitation of 90+30 days, as provided under Section 34 (3) of the

Act. FAO No.128/2017 Page 1 of 2 3. After hearing the arguments, the learned ADJ, vide the impugned order, condoned the delay in filing the objection under Section 34 of the Act subject to payment of Rs.5,000/- as cost. This order was assailed by the appellant in this appeal. Subsequently, the appellant has accepted the cost of Rs.5,000/- on 18.03.2017, which was paid to her by DD No.233206 dated 10.02.2017.

4. Learned counsel for the appellant contends that the appellant has not encashed the draft, which was accepted on 18.03.2017. In this context, it is observed that the Appellant cannot be permitted to "blow hot and cold", "fast and loose" or "approbate and reprobate". Where she has knowingly accepted the benefits of an order, she cannot be permitted to assail the same. This rule is applied to do equity. Therefore, in this case where the appellant has already accepted the cost, she is estopped by her act, conduct and acquiescence to continue the appeal.

5. Accordingly, the appeal along with the application, being C.M. No.10459/2017, is dismissed. Trial Court Record be sent back forthwith. VINOD GOEL, J.

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