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

Date of Decision: 29.09.2020

\+ **O.M.P. (COMM) 486/2020**

NATIONAL HIGHWAYS AUTHORITY OF INDIA ..... Petitioner
Through Mr.Balendu Shekhar, Adv. with Mr.Vipul Singh, Adv. & Mr.Rajkumar Maurya, Adv.

versus

SAHAKAR GLOBAL LIMITED ..... Respondent
Through Mr.Neeraj Kishan Kaul, Sr. Adv. with Mr.Rakesh Sinha, Adv., Mr.Pawan Kumar, Adv. & Mr.Ramchandra Madan, Adv.

CORAM:
HON'BLE MS. JUSTICE REKHA PALLI

REKHA PALLI, J (ORAL)

I.A Nos.8712/2020 & 8715/2020

1. Allowed, subject to all just exceptions.
2. The application stands disposed of.

IA No.8714/2020

3. This is an application seeking condonation of delay in re-filing the petition. In the light of the fact that the delay occasioned is only of 2 days, the application is allowed.
4. The application stands disposed of.

5. This petition under Section 34 of the Arbitration and Conciliation Act 1996 (hereinafter referred to as 'the Act'), filed by National Highway Authority of India (NHAI), which was the respondent in arbitration, assails the award dated 20.11.2019 passed by the sole arbitrator. Under the impugned award, the learned Arbitrator has held the petitioner liable to pay the respondent a sum of INR 1,40,60,784 along with future interest @ 9% per annum by way of compensation on account of *inter alia* the loss in revenue triggered by reduced toll collections once GST was implemented w.e.f. 01.07.2017.

6. The facts in brief are that on 23.05.2017, the petitioner invited bids from entities interested in undertaking toll collection from users of the Vaghasia Fee Plaza for the section from KM 183.50 to 254.00 (Bamanbore-Garanore section) of NH-8A in the state of Gujrat. In its Request for Participation (RFP), the petitioner had set out that the potential toll collection on this stretch of the highway would be INR 39.32 crores. The respondent's bid of INR 41,49,00,000 was accepted by the petitioner on 21.06.2017 by way of a letter of acceptance (hereinafter referred to as 'LoA') and, in accordance with the estimated annual potential collection (APC), the respondent submitted the requisite security of INR 39,32,000 by way of a bank guarantee of INR 3,45,75,000 valid for 14 months and a bank draft of INR 3,45,75,000, both dated 28.06.2017.

7. The parties entered into a contract agreement on 30.06.2017 whereunder the toll plaza was to become operational w.e.f. 02.07.2017 at 0800 hours and remain entrusted to the respondent for a period of

one year. Accordingly, the project site was duly handed over to the respondent on 02.07.2017. However, two days prior to the execution of the agreement, on 28.06.2017, the Central Government had issued a notification bearing no. 9/2017-Central Tax stating that the Central Goods and Service Tax Act (hereinafter referred to as the 'GST Act') would come into effect from 01.07.2017. The GST Act changed the earlier law with regard to levy and collection of excise duty etc. on goods and brought into force a unified code for Goods and Services Tax (GST) w.e.f. 01.07.2017. Although initially, the Government had set the date for implementation of GST as 01.04.2017, this was suspended and the code was eventually implemented w.e.f. 01.07.2017.

8. The respondent, after taking over control of the Vaghasia Fee Plaza on 02.07.2017, realized that the petitioner's estimated projections had failed to account for the adverse consequences of a change in the tax regime. Evidently, there was a heavy fall in the traffic volume of the commercial transport vehicles and user fee collection on the highway owing to the implementation of GST. The reduction in toll collections rendered the respondent unable to deposit weekly remittances on time, and it tried to plead its case with the petitioner in order to revisit their agreement pertaining to toll collections or seek grant of leniency. In fact, as early as on 05.07.2017, the respondent issued a notice in terms of clause 25(c)(i)(1) of the contract agreement informing the petitioner about this shortfall in traffic volume and toll collection due to implementation of GST and requested the petitioner to conduct a three day traffic survey on the Plaza to assess the actual fall in traffic

volume for itself. The respondent even offered to bear the costs of the traffic survey. Subsequently, on 10.07.2017, the respondent, citing implementation of GST as a Force Majeure event covered under clause 25(b)(v) of the contract agreement, submitted a statement of the losses suffered by it until 09.07.2017.

9. The petitioner, in turn, vide its response dated 11.07.2017, refused to accept the petitioner's claims and denied that the implementation of GST was a Force Majeure event. Rather, the petitioner claimed that since the GST was originally proposed to be implemented w.e.f. 01.04.2017, instead of 01.07.2017, much before execution of the contract agreement on 30.06.2017, the fact of implementation of GST was always in the respondent's knowledge. In turn, vide its letter dated 19.07.2017, the petitioner claimed that since the shortfall in toll collection was a business risk associated with the work, the respondents was required to forthwith deposit the outstanding toll collections with penal interest. The petitioner also threatened to terminate the contract agreement with the respondent and recover its outstanding dues by invoking the performance security deposited on 28.06.2017. As a result, the respondent was compelled to deposit an amount of INR 1,59,13,974 with the petitioner by way of toll collection deposit.

10. On 27.10.2017, the respondent wrote to the petitioner, through its Project Director, PIU-Rajkot, requesting it to not take any hasty decision against the respondent on the ground of outstanding deposit of toll collection. When the petitioner failed to reply, the respondent invoked arbitration by raising the following claims before the learned arbitrator:

"(i) Force Majeure claim under clause 25 (b)9v) r/w clause 25 (c)(ii)(5) on account of loss due to change in law by introduction of GST (loss period 02.07.2017 to 10.09.2017- Rs. 40,16,382

(ii) Claim on account of operating expenses @ 5% of remittance payable for the period 02.07.2017 to 10.09.2017- Rs. 40,16,382

(iii) Claim on account of floods for over lapping period 21.07.2017 to 31.07.2017- Rs. 14,17,625/-

(iv) TCS @ 2% Rs. 16,06,553

(v) Total- Rs. 2,02,51,788"

11. Before the learned arbitrator, the petitioner adopted several grounds, the primary one being that since (i) the GST was originally slated for implementation w.e.f. 01.04.2017 and (ii) the agreement between the parties was signed on 30.06.2017 with a stipulated start date of 02.07.2017, by the time the GST was actually implemented on 01.07.2017, the respondent was aware of its advent and could have refrained from executing the agreement between them. However, while the arbitration was pending, the petitioner issued a circular on 16.03.2018 accepting that the GST promulgation w.e.f. 01.07.2017 shall be considered as a 'change in law' for the purpose of clause 25(b)(v) of the contract agreement executed with its contractors.

12. After a careful consideration of the pleadings before it, the learned Arbitrator, by way of its exhaustive findings, rejected the petitioner's contentions and held that notwithstanding the respondent's prior knowledge regarding the implementation of the GST Act originally scheduled to begin from 01.04.2017, which was subsequently suspended, it could not possibly have known the next scheduled date. Even the petitioner's argument that the respondent's act of executing the contract agreement on 30.06.2017, despite being

aware of the implementation of the GST w.e.f. 01.07.2017, disentitled it from claiming Force Majeure was rejected. The learned Arbitrator reasoned that the respondent could not possibly withdraw from the contract agreement considering the fact that this would have triggered Clause 33 of the contract agreement which would have entitled the petitioner to invoke the security deposited by the respondent on 28.06.2017. However, the arbitrator held that the implementation of the GST was indeed a Force Majeure event in the light of the petitioner's circular dated 16.03.2018 whereunder it accepted GST w.e.f. 01.07.2017 as a 'change in law' falling under the ambit of force majeure as envisaged in the contract agreement. Aggrieved by these findings, the petitioner has filed the present petition.

13. Assailing the award, Mr Balendu Shekhar, learned counsel for the petitioner has primarily reiterated the submissions made before the learned arbitrator. He submits that the learned arbitrator, by holding that the introduction of GST fell within the ambit of clause 25(b)(v) of the contract agreement and was a force majeure event, failed to appreciate that the contract was executed between the parties only on 30.06.2017, by which time the Government of India had already notified that GST would be implemented w.e.f. 01.07.2017. Thus, the respondent was well aware of the legal position which was to prevail on 01.07.2017 and the consequences thereof at the time of signing the contract. The respondent is now estopped from claiming ignorance of the possible consequences of GST being implemented, upon the public infrastructure of the country. He further submits that learned Arbitrator has also erred in holding that the implementation of GST qualifies as a 'change in law'. While not disputing the petitioner's

circular dated 16.03.2018 and/or the fact that the circular states that the imposition of GST does appear to be a change in Law, he submits that the learned Arbtitrator failed to appreciate an important caveat in the subsequent portion of this circular – that whether the introduction of GST would qualify as a Force Majeure event or not, would be considered in the facts and circumstances of each case. He, thus, submits that the petitioner's circular has been misinterpreted by the learned Arbitrator to have been broadly applicable to all contracts which the petitioner is a party to. He, therefore, prays that the impugned award arises out of a misinterpretation of the circular dated 16.03.2018 and ought to be set aside.

14. On the other hand Mr. Neeraj Kishan Kaul, learned senior counsel for the respondent, who appears on advance notice, supports the impugned award and submits that the learned arbitrator has, after due appreciation of the evidence led by the parties, come to a categorical conclusion that the introduction of GST w.e.f 01.07.2017 could not have been envisaged by the parties at the time of submission of the bid on 13.06.2017. He further submits that once the petitioner itself declared, by way of its public circular dated 16.03.2018, prescribed the implementation of GST as an event that would qualify as a 'force majeure' event, it could not turn around and hold the respondent to a different standard for evoking the force majeure clause. Even if the circular came with a caveat that the application of force majeure clause on account of implementation of GST would be decided on a case by case basis, then the fact that the learned arbitrator has already appreciated the evidence on record to conclude that force majeure clause is applicable in the present case, resolves the

petitioner's complaint. Therefore, the learned arbitrator has rightly qualified the government's decision to implement GST as a Force Majeure event in terms of clause 25(b)(v) of the contract agreement. He further submits that once the learned arbitrator has perused the material placed on record and confirmed that there was a shortfall in traffic on the Bamanbore-Garanore section of NH-8A for the period between 02.07.2017 and 10.09.2017, this Court cannot be asked to re-examine this issue at this stage in a petition under Section 34 of the Act. For these reasons, he submits that there is no infirmity in the impugned award and prays for dismissal of the present petition.

15. Before I deal with the rival contentions of the parties, it may be useful to note the limited scope of interference by this Court while dealing with a petition under Section 34 of the Act. In this regard, reference may be made to a recent decision in ***Hindustan Construction Company Limited & Ors. Vs. Union of India & Ors.*** *2019 (16) SCALE 823* wherein the Supreme Court reiterated the scope and grounds of judicial interference in an arbitral award under Section 34 of the Act; the relevant paragraph reads as under:

> *"9. Further, this Court has repeatedly held that an application Under Section 34 of the Arbitration Act, 1996 is a summary proceeding not in the nature of a regular suit - see Canara Nidhi Ltd. v. M. Shashikala. As a result, a court reviewing an arbitral award Under Section 34 does not sit in appeal over the award, and if the view taken by the arbitrator is possible, no interference is called for - see Associated Construction v. Pawanhans Helicopters Ltd. (2008) 16 SCC 128 at paragraph 17.*
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> *50. Also, as has been held in the recent decision Ssangyong Engineering & Construction Co. Ltd. v. NHAI 2019 SCC Online 677, after the 2015 Amendment Act, this Court cannot interfere*

with an arbitral award on merits (see paragraph 28 and 76 therein)…."

16. In the instant case, the petitioner's two primary reasons for challenging the award are that, firstly, the respondent had always been aware of the decision of the Government of India to implement GST regime in the country and could not, therefore, claim any damages on the ground that the advent of the new tax regime reduced highway usage and consequent toll collections; the second being that the petitioner had never admitted, in its circular dated 16.03.2018, that the implementation of GST would qualify as a Force Majeure event in all cases and, therefore, the Arbitrator's reliance on the same to confirm that the respondent was entitled to invoke the 'force majeure clause' was misplaced.

17. To begin with, it is a general truth that once the Government of India had proposed implementing the GST all over the country, the respondent was aware of its advent, but I find the petitioner's deduction that the respondent's awareness of the regime implied that it had knowledge of the date on which it would be implemented, on the date of submission of the bid, entirely unsupported and presumptuous. It is far-fetched to argue that the respondent's awareness of the existence of a policy would equip it with the ability to predict the date on which the said policy would be implemented. The learned Arbitrator has rightly held that once the earlier date of 01.04.2017 was postponed by the Government of India, the next date of implementation was not known or could not be speculated by anybody. The petitioner's assertion that the respondent ought to have refrained from executing the contract agreement if it was unwilling to

bear the consequences of the GST regime also proceeds on the presumption that the respondent had the ability to predict the adverse impact of this decision on consumer behavior with respect to utilization of national highways. This line of argument also fails to account for the fact that by 28.06.2017, the day when the Government of India announced its intention to implement this regime, the parties were already bound contractually owing to the LoA issued by the petitioner on 21.06.2017, which aspect had been elucidated by the learned Arbitrator. This implied that on 30.06.2017, had the respondent decided to refrain from executing the agreement based on the notification dated 28.06.2017 issued by the Government of India, it would have had to forfeit the securities it had furnished in favour of the petitioner for a sum of INR 39,32,000 on 28.06.2017. Thus, I find no merit in the petitioner's contention that the respondent's consent to execute the contract agreement on 30.06.2017 ought to be construed as an acquiescence on its part to bear the consequences of the implementation of GST. On this aspect, I find that the learned Arbitrator has made extensive observations in paragraph 4.3.3 of the award, and completely agree with the view taken by him which reads as follows:

> *"4.3.3*
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> *There is no doubt that Claimant was aware about the likely implementation of GST all over the country. The earlier date of 01.04.2017 was postponed by Government of India (GOI) and next date of implementation was not known or could be speculated by anybody. GOI brought into force Central Goods and Services Tax Act, 2017 w.e.f. 01.07.2017 vide notification no.9/2017-Central Tax dated 28.06.2017 issued u/s 1 (3) of the Act (C-2/CD-1). As stated in para 4.3.2 supra, the quoted price of amount of Rs.41,49;00,000/- in the bid as on 13.06.2017, was without knowing the date of· implementation of GST. However the bidder/claimant was very much*

aware about the clauses of the agreement, which contained Force Majeure clause. The respondent's argument in para 4.2.13 supra that claimant knew on 28.06.2017/ 30.06.2017 about the order of GST and went ahead with the agreement and could back out from the agreement is not found reasonable and lawful on account of the facts stated in 2nd para of 4.-3.3 and the 'following additional facts :-

(i) Implications of GST cannot be incorporated/ assessed by' any individual/ probable bidders in the quoted rates as on 13.06.2017 since the date of implementation of GST was not known to any body in the country.

(ii) Issue of LOA completes the agreement as per Indian Contract Act 1872 Respondent had issued LOA on the offer of claimant and therefore accepted the offer/bid. Claimant cannot back out after issue of LOA. An agreement is in operation immediately thereof. All other terms of contract will get attracted viz. Clause 33 & 35(5) thereafter if the Claimant backs out, i.e forfeiting of performance security etc.

(iii)The implementation of GST was to make the transportation more smooth and hassle free, meaning thereby an increase in traffic volume. No bidder including the claimant was in a position to know the date of implementation of GST and more so the effects of GST on transportation. Therefore Claimant would also not be in a position to assess/ forecast the immediate effects of GST on the business risk as it was covered under Force Majeure clause.

(iv) Notwithstanding the contents of para (ii) supra, claimant having ·deposited the performance security and given bank guarantee, was not in a position to withdraw the offer as it would have attracted the clause 33 wherein the respondent can forfeit the performance security and adjust any dues or claim damages without prejudice to its other rights.

(v) Claimant had quoted the tender after going through; the provisions of the ·contract. Claimant was aware about the provisions of " Force Majeure Clause" in the contract. Provisions of Clause 25(b) & (c)(1).etc. are being quoted below 25(b) Force Majeure Event:
Except as stated in Clause (a) above Force majeure Event means an event or circumstances or a combination of events and circumstances referred to in this clause which are beyond the reasonable control of the Party or Parties to this Contract and which

party could not have prevented or reasonably overcome with the exercise of its reasonable skill and care in relation to performance of its obligations pursuant to this Contract and which are of the nature, without limitation of those described below:
(i) .....
(ii) to (iv) ..... .
(v) Any change in law which has a material adverse. effect on the obligation of the parties hereto

(vi).. ~.

(vii) Suspension of traffic on the said section of Nati9nai Highway/ said bridge or any part thereof, exceeding 15(Fifteen) days at a stretch

(viii) .... 25(c) (i) 1 .. If a party claims relief on account of a Force Majeure event, then the Party claiming to be affected by the Force Majeure event shall, as soon as reasonably practicable and in any event within 7 days_,_ of becoming aware of the Force Majeure event, give notice giving details of the effects of such Force Majeure on the Party's obligations under this contract to the other Party in writing,including the dates of commencement· and actual/ likely date of · cessation of such Force Majeure and its effects, with necessary 'supporting documents and data."

18. Next I deal with the question as to whether the implementation of the GST regime qualified as 'any change in law which has a material adverse effect on the obligation of the parties hereto.' as envisaged in the Force Majeure Clause, i.e. Clause 25(b) of the contract agreement. Evidently, implementation of GST vide Notification No.9/2017 - Central Tax dated 28.06.2017 ushered a change in the country's sales tax regime and constitutes a 'a change in law', but whether it invites the application of Clause 25(b) can be concluded on assessing the impact of this change on the respondent's ability to discharge its obligations under the contract agreement. The respondent claims that the change in sales tax regime sent rippling waves of shock across the country's markets, and severely impacted

the transport and sales of goods across the country, adversely affected inter-state and intra-state movement of goods, which implied that the highway was not being used optimally or at the level anticipated by the petitioner while drawing up its toll collection projections. The respondent observed the then-prevailing traffic volume statistics and immediately sent notices to the petitioner on 05.07.2017 and 10.07.2017, which have also been duly noted by the learned Arbitrator in its award. Thus, the respondent gave the petitioner early notice and regular updates regarding the downward dip of highway traffic and toll collections at that point of time. The respondent even requested the petitioner to carry out its own traffic assessment to verify the respondent's claims, but the petitioner refused. It is against this backdrop that the petitioner issued the circular dated 16.03.2018, specifically for the benefit of its toll collection contractors, which stipulated that while the implementation of the GST Act constituted a 'change in law', but whether this change invited application of the 'Force Majeure' clause in a contract would be determined in the facts of each case by the respondent's representatives. It may be useful to refer to the contents of the petitioner's circular dated 16.03.2018 in extenso:

"NHAI/13013/CO/17-18/CB/GST/114535 Date: 16.03.2018

To

All ROs.

Subject: Relief to User fee Collection Contractors on Public Funded Projects at the toll plazas on NHs on account of implementation of GST.

Sir,

Various representation have been received from various Toll Contractors at Public Funded plazas regarding loss in traffic and its impact on toll revenue collection, if any, due to implementation of Goods and Services Tax (GST) by Government of India w.e.f. 01.07.2017. AICUP and some other fee collecttion agencies have requested to consider their representation under Force Majeure Clause 25 (b) (v) of the Contract Agreement:

"Any change in law which has a material adverse effect on the obligation of the parties hereto."

2. In this regard, although promulgation of GST w.e.f. 01.07.2017 appears to be a change in law, however, its material effect could not be proved as the claims submitted by AICUF regarding reduction in traffic of commercial vehicles after implementation of GST are of generic nature without any project specific inputs. Further, their claims regarding reduction in tollable traffic due to implementation of GST had only limited/short term effect on toll revenue.

3. Accordingly, the Competent Authority has decided that such cases may be dealt by concerned RO on case to case basis as per applicable contract provisions after due verifications of facts regarding reduction in traffic due to implementation of GST w.e.f. 01.07.2017 with delegated powers of ROs.

Yours faithfully
****
General Manager (CO)"

19. By relying on this circular and the remaining evidence on record, the learned Arbitrator decided the issue of applicability of 'force majeure' clause in the following manner:

"*Notification is therefore a change in law as per Constitution of India. It can therefore be concluded that by issuing a notification of GST on 28.06.2017 by Government of India, the provisions of Force Majeure Clause would become applicable in the present agreement*

besides, as pointed out by claimant in para 4.1.17 & 4.1.18 supra. Respondent's headquarter had issued a ·circular dated 16.03.2018 (C-28/CD-1) accepting GST w.e.f. 01.07.20'17 as a change in law. Further instructions were also issued to consider claims regarding reduction in traffic. RO's of respondent were to decide on case to case basis as applicable after due verification of facts & agreement provisions regarding reduction in traffic.Contention of Respondent regarding non-applicability of Force Majeure Clause is the present agreement is therefore incorrect as stated in paras 4.3.2 to 4.3.4 supra and per existing laws and terms of the agreement."

20. Evidently, from the material placed on record, the learned Arbitrator found merit in the respondent's claims regarding reduction in traffic and even on this aspect, observed as under in Paragraph 4.3.7 of the impugned award:

"4.3.7

Having decided/adjudicated in para ·4.3.5 supra, that the GST ·notification is applicable under Force Majeure in the present agreement, it is desirable to examine the quantification of the claim due to reduction in traffic volume on account of GST. Let me examine the volume of traffic stated by claimant & respondent as below:

a) Respondent in para 4.2.1(vii) & 4.2.3 has compared the volume of traffic of May, June and July 2017 and as per respondent's record, it is revealed· as 1,00,679, 98,115 and 1,31,860 vehicles respectively. As per respondent, the traffic volume of July 2017, after implementation of GST, has increased to 1,31,860 vehicles.

b) Claimant in para 4.1.22 supra has however stated that the respondent's above statement is incorrect since the Respondent has placed on record only tollable traffic and no exempted category of vehicles are mentioned. The volume of traffic for July 2017 submitted by the Claimant includes the exempted· category of vehicles with the tollable traffic. Respondent has therefore portrayed a completely misleading picture. In fact, during July 2017, 42,895 exempted category (non-tollable) vehicles passed through·· Vaghasia User Fee Plaza, resultantly the tollable· traffic remained at 88,965 only. Accordingly the traffic volume in July 2017 clearly came down in July 2017 to 88,965 (paragraph 6/CD-2 and Comparative Table in Annexure C-29/CD-2).

It is pertinent to note that the Monthly User Fee Statement dated 6 June 2017 for May 2017 (01.05.2017 to 31.05.2017) mentions the number of vehicles as 1,00,679 and the Monthly User Fee Statement dated 5 July 2017 for June ·2017 (01.06.2017 to 31.06.2017) mentions the number of vehicles as 98,115 at Vaghasia Toll Fee Plaza, as claimed to be submitted by M/s Anoj Kumar Agarwal. This does not indicate the exempted category ·vehicles. Whereas, the Monthly User Fee Statement submitted by Claimant as per Clause 23(d) r/w Schedule V, by way of its letter dated 5 August 2017 (page 299~301/SOC) for July 2017 (02.07.2017 08:00 hrs to 31.07.2017 24:00 hrs) states the 'total number of vehicles as 1,31,860 includes tollable and exempted category vehicles. Therefore, it is submitted that on the basis of the aforesaid numbers the Respondent had projected a· misleading picture that there was no fall in the flow of traffic. However, in the months of May 2017 the traffic count was 1,00,679 and in June 2017 the traffic count was 98,115"

21. In the light of these comprehensive findings recorded by the learned Arbitrator, I find no merit in the petitioner's contention that the implementation of GST could not be construed as a 'change in law' to qualify as a Force Majeure event in the respondent's case. In the first place, on 16.03.2018, once the petitioner released a public circular deeming the implementation of GST as a 'change in law' qualifying as a force majeure event, I see no reason to deprive the respondent of the benefit of this declaration. Secondly, even if the petitioner wished to rebut the respondent's contentions on this ground, it was the petitioner's duty to provide the learned Arbitrator with a transparent and complete picture of the flow of traffic and toll collections arising therefrom, instead of providing data containing inflated figures owing to exclusion of non-tollable vehicles. A perusal of the findings extracted hereinabove show that the petitioner's sole caveat in the circular that the toll contractors had been unable to prove their claims, stood resolved when the learned arbitrator not only delved into the specifics of the respondent's claims, but also

meticulously combed through the specific project inputs provided by the respondent to conclude that it had suffered material losses in toll revenue owing to the implementation of GST. The learned Arbitrator conducted a thorough examination of the data pertaining to traffic volume and toll collections placed before it and arrived upon a sound decision to extend the benefit of the petitioner's circular dated 16.03.2018 to the contract agreement executed between the parties on 30.06.2017, for the purpose of upholding the invocation of Clause 25 of the contract agreement, i.e., Force Majeure Clause. There is, thus, no infirmity in the award dated 20.11.2019 even on this ground.

22. In the light of the aforesaid discussion, I find absolutely no reason to interfere with the well-considered findings of the learned Arbitrator. In fact I am of the view that the conclusion of the learned Arbitrator is, in the facts of the present case, the only possible one in law.

23. For the aforesaid reasons, there is absolutely no ground made out to interfere with the impugned arbitral award passed by the learned Arbitrator warranting the exercise of the limited jurisdiction of this Court under Section 34 of the Act.

24. The petition, being meritless, is dismissed.

REKHA PALLI, J

SEPTEMBER 29, 2020
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