

M/s. Hyder Consulting (UK) Ltd

v.

Governer State Of Orissa Tr.Chief Eng

(Supreme Court Of India)

HON'BLE MR. JUSTICE R.M. LODHA HON'BLE MR. JUSTICE H.L. GOKHALE

Special Leave Petition (Civil) No. 29407 Of 2010 With Slp(C) No. 30764 Of 2010 Slp(C) No. 30776 Of 2010 | 13-03-2012

1. We have heard Mr. C.A. Sundaram, learned senior counsel for the petitioners, and Ms. Kirti Renu Mishra, learned counsel for the respondents.

2. Leave granted.

3. Hearing of the Appeals is expedited.

4. The High Court has relied upon the decision of this Court in State of Haryana and Others Vs. S.L. Arora and Company, (2010) 3 SCC 690, and quashed the orders dated February 19, 2009 and March 26, 2009 passed by the District Judge, Khurda, Bhubaneswar.

5. Mr. C.A. Sundaram, learned senior counsel for the appellants, submits that the observations in S.L. Arora and Company (supra) that the decisions of this Court in McDermott International INC. Vs. Burn Standard Co. Ltd. and Others, (2006) 11 SCC 181, and Uttar Pradesh Cooperative Federation Limited Vs. Three Circles, (2009) 10 SCC 374, were passed on inadvertent erroneous assumption and these judgments are per incuriam in holding that interest awarded on the principal amount upto the date of award becomes the principal amount and, therefore, award of future interest thereon does not amount to award of interest on interest are not justified.

6. Mr. C.A. Sundaram, learned senior counsel, referred to the decisions of this Court in *Oil & Natural Gas Commission Vs. M.C. Clelland Engineers S.A.*, (1999) 4 SCC 327, and *Central Bank of India Vs. Ravindra and Others*, (2002) 1 SCC 367, in support of his argument that the view taken by this Court in *S.L. Arora and Company (supra)* that Section 31(7) of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') does not authorise and enable arbitral tribunals to award interest on interest from the date of the award is not the correct view.

7. Learned senior counsel for the appellants also submitted that the view taken by this Court in *S.L. Arora and Company (supra)* that the award of interest on cost was not permissible under Section 31(7) of the Act is inconsistent with the decision of this Court in the case of *Three Circles (supra)*.

8. Having regard to the above submissions, we are of the view that it would be appropriate if these Appeals are heard by a Bench of three Judges.

9. Let the papers be placed before Hon'ble the Chief Justice of India for directions for placing the matters before the appropriate Bench.