

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL No. 5891 OF 2016
(ARISING OUT OF SLP (C) No. 20397/2014)

NHPC Ltd.

.....Appellant(s)

VERSUS

M/s Jai Prakash Associates Ltd.
& Ors.

.....Respondent(s)

J U D G M E N T

Abhay Manohar Sapre, J.

1. Leave granted.
2. This appeal is filed against the final judgment and order dated 06.02.2014 passed by the High Court of Punjab and Haryana at Chandigarh in F.A.O. No. 3607 of 2011 wherein the Single Judge of the High Court dismissed the FAO filed by the appellant herein, in consequence, affirmed the order dated 24.12.2010 passed by the Additional District

Judge, Faridabad in Arbitration Petition No.52 of 2010.

3. On 11.08.2014, this Court issued notice of the appeal to respondent No. 1 confining it to examine only the question regarding the rate of interest awarded by the High Court on the awarded sum to the respondent.

4. Therefore, the short question involved in the appeal is whether the rate of interest awarded by the High Court on the awarded sum is proper or not.

5. Having regard to the short controversy involved in the case, it is not necessary to burden the order by mentioning the facts in detail except to the extent necessary for the disposal of the appeal.

6. The appellant-Government of India Company awarded a contract dated 21.03.2001 to respondent No.1 for doing some specific civil construction work

in the project-Teesta V Hydroelectric Project at Sikkim known as Lot TT-4 civil works.

7. In execution of the aforesaid work, disputes regarding non-payment of dues for the work done by respondent No.1 and several ancillary disputes in connection thereto arose between the parties.

Since the parties could not amicably settle the disputes and hence they were referred to the Arbitral Tribunal in terms of the arbitration clause contained in the contract. The Arbitral Tribunal consisted of three arbitrators.

8. Respondent No. 1 filed their claim for recovery of Rs.537.88 lacs against the appellant before the Arbitral Tribunal towards their outstanding dues of various natures. The appellant contested the claim of the respondent.

9. By award dated 10.05.2008, the Arbitral Tribunal partly allowed the claim of respondent

No.1 and accordingly awarded them a total sum of Rs.356.78 lacs. The Arbitral Tribunal also awarded 10% p.a. simple interest payable on the awarded sum (Rs.356.78 lacs) from the date of accrual of cause of action till the date of award and further awarded future interest at the rate of 12% p.a. on the awarded sum, i.e., Rs.451.49 lacs (Rs.356.78 lacs principal sum + Rs.94.71 lacs interest = Rs.451.49 lacs) payable from the date of award till recovery.

10. The appellant, felt aggrieved, challenged the legality of the aforesaid award under Section 34 of the Arbitration and Conciliation Act, 1996 before the Additional District Judge, Faridabad, who by order dated 24.12.2010 partly allowed the application and modified the award accordingly.

11. The appellant, felt aggrieved, challenged the order of the Additional District Judge and filed

appeal before the High Court. By impugned order, the High Court dismissed the appeal and upheld the order passed by the Additional District Judge.

12. Felt aggrieved, the appellant has filed this appeal by way of special leave before this Court.

13. Heard Mr. Gaurab Banerji, learned senior counsel for the appellant and Mr. Sarvjit Pratap Singh, learned counsel for respondent No.1.

14. Submission of the learned counsel for the appellant was only one. According to him, the High Court while dismissing the appeal and in principle upholding of the award of the Arbitral Tribunal wrongly awarded interest at the rate of 12% p.a. and 18% p.a. in place of 10% and 12% p.a. which was awarded by the Arbitral Tribunal. It was, therefore, his submission that this error appears to be more in the nature of typographical error rather than on merits and hence needs to be corrected by this

Court by restoring the same rate of interest which was awarded by the Arbitral Tribunal in the award dated 10.05.2008 and upheld by Additional District Judge vide his order dated 24.12.2010, i.e., 10% and 12% respectively as detailed above in para 9.

15. Learned counsel for respondent No.1 candidly admitted the error committed by the High Court in the order while awarding the interest. Respondent No.1 also in their counter at page 204 admitted the error, which was pointed out by the appellant while awarding the rate of interest.

16. In our opinion, the submission urged by the appellant appears to be correct and hence it deserves to be accepted. As mentioned above, even the respondent could not oppose the prayer made by the appellant which appear to be more in the nature of typographical error.

17. In the light of foregoing discussion, which is

sufficient, the appeal succeeds and is allowed in part. Impugned order is modified to the extent that the awarded amount shall carry the interest at the same rates which were awarded by the Arbitral Tribunal in the award dated 10.5.2008. In other words, the awarded sum shall carry interest at the rate 10% p.a. payable from the date of accrual of cause of action till the date of award and shall further carry interest at the rate of 12% p.a. from the date of award till recovery on the awarded sum as detailed in para 9 above.

18. No costs.

.....J.
[J. CHELAMESWAR]

.....J.
[ABHAY MANOHAR SAPRE]

New Delhi;
July 04, 2016