

Supreme Court of India refuses to interfere into the order passed by SIAC and interim award passed by the Singapore arbitrator

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Introduction:

By a recent order dated 16th December 2014 in the matter of “Pricol Limited Vs Johnson Controls Enterprise Ltd”, in Arbitration Case (Civil) No.30 of 2014 the Supreme Court of India while exercising its Jurisdiction under S.11(6) of the Arbitration and Conciliation Act, 1996 refused to interfere into the order passed by Singapore International Arbitration Centre(SIAC) appointing a sole arbitrator and the interim award passed by the Sole arbitrator upholding the appointment of the Singapore International Arbitration centre appointing him as the sole arbitrator.

Brief facts of the case:

A joint venture agreement was signed between the parties on 26.12.2011 in which there was an arbitration clause specifying Singapore as place of Arbitration and Arbitral Institution as “Singapore Chamber of Commerce”. It also stated that JVA shall be governed and construed in accordance with the laws of India. Since there is no arbitral institution in Singapore in the name of “Singapore Chamber of Commerce” the respondent Johnson controls approached Singapore International Arbitration centre (SIAC) seeking to appoint a sole arbitrator. SIAC also appointed an arbitrator. The arbitrator also passed a partial award dated 27th November 2014 ruling that the appointment of SIAC is valid under the International Arbitration Act of Singapore and also since the parties have agreed that the seat of arbitration shall be Singapore.

Pricol, the petitioner in the Supreme Court of India, challenged the above proceedings and contended that the date of JV is before the decision of Bharat Aluminium Company Vs Kaiser Aluminium Technical services Inc as reported in (2012) 9 SCC 552 and therefore the procedural law will be only the law of India and not AAI of Singapore.

Decision of the Supreme Court of India:

The Supreme Court of India considered all the points argued by the parties and passed a well-reasoned order holding that while exercising the powers under S.11(6) of the Act, the National court can pass an order only if the seat of Arbitration is in India. It further held that in the present case the seat of arbitration is Singapore and in such a situation the supervisory jurisdiction is with

the Courts in Singapore to examine the validity of the order of SIAC appointing the arbitrator and also the interim award passed by the Sole arbitrator. For the above said reasons Supreme Court of India rightly dismissed the application.

Comments:

By this judgment Supreme Court of India has reconfirmed the jurisdiction of the Supervising courts situated in the seat of arbitration. It has also held that the parties should challenge the awards only in the courts situated in the seat of arbitration and not in another country.

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