

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO. OF 2023
(@ SPECIAL LEAVE PETITION (CIVIL) NO.22075/2022

ORIENTAL STRUCTURAL ENGINEERS PVT. LIMITED

Appellant

VERSUS

THE SECRETARY TO GOVERNMENT PUBLIC
WORKS (D) DEPARTMENT, GOVERNMENT OF KERALA

Respondent

O R D E R

Leave granted.

1. The only issue for consideration is on the interpretation of dispute no.18 of the award which deals with the construction of sub-clause 70.8. On such construction, learned Arbitrator passed an award in favour of the appellant holding that in view of the subsequent change in law, the excess tax amount paid by it, is entitled to be returned or given to deduction. The said view being possible and plausible view received the imprimatur from the court in exercise of powers under Section 34 of the Arbitration and Conciliation Act, 1996, (for short, 'Arbitration Act'). However, by the impugned order, it was overturned. We find force in the submission made by the learned counsel appearing for the appellant.

2. The view expressed by the Tribunal is certainly a plausible view. In exercise of powers conferred under Section 37 of the Arbitration Act, the said view cannot be replaced though another view is also possible.

3. Admittedly in the case on hand, the tax was reduced by the

operation of law whereas the appellant has paid higher tax as was in existence earlier.

4. In such view of the matter, we are inclined to set aside the order impugned. The civil appeal stands allowed. No costs.

5. Pending application, if any, shall stand disposed of.

.....J.
[M.M. SUNDRESH]

.....J.
[J.B. PARDIWALA]

NEW DELHI;
4th September, 2023

ITEM NO.57

COURT NO.14

SECTION XI-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

PETITION FOR SPECIAL LEAVE TO APPEAL (C) NO.22075/2022

(Arising out of impugned final judgment and order dated 06-06-2022 in ARBA No. 26/2017 passed by the High Court Of Kerala at Ernakulam)

ORIENTAL STRUCTURAL ENGINEERS PVT. LIMITED

Petitioner(s)

VERSUS

THE SECRETARY TO GOVERNMENT PUBLIC
WORKS (D) DEPARTMENT, GOVERNMENT OF KERALA

Respondent(s)

Date : 04-09-2023 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE M.M. SUNDRESH
HON'BLE MR. JUSTICE J.B. PARDIWALA

For Petitioner(s) Mr. A.K. Airi, Sr. Adv.
Mr. Krishna Dev Jagarlamudi, AOR
Ms. Inderdeep Kaur Raina, Adv.
Mr. Mudit Ruhella, Adv.
Mr. Shivam Prashar, Adv.

For Respondent(s) Mr. C. K. Sasi, AOR
Ms. Meena K Poullose, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal stands allowed in terms of the signed order. No costs.

Pending application, if any, shall stand disposed of.

(KAVITA PAHUJA)
COURT MASTER (SH)

(RAM SUBHAG SINGH)
COURT MASTER (NSH)

[Signed order is placed on the file]