

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL

Appeal From Order No. 16 of 2021

U.P. Project Corporation Limited Lucknow
..... Appellant

versus

M/s S.K.Techno and Company..... Respondent

*Mr. Jitendra Chaudhary, learned counsel for the appellant.
Mr. Bilal Ahmed, learned counsel for the respondent.*

Judgement dated: 30.06.2022

**Coram: Hon'ble Vipin Sanghi, CJ.
Hon'ble Sanjaya Mishra, J.**

Upon hearing the learned counsels, the Court made the following Order (per Vipin Sanghi, CJ)

1. The present Appeal under Section 37 of the Arbitration & Conciliation Act, 1996 assails the Judgement dated 10.02.2020 passed by the learned First Additional District Judge (Commercial), Dehradun in Arbitration Case No. 251 of 2019. By the impugned judgement, the learned First Additional District Judge (Commercial) has dismissed the objections preferred by the appellant under Section 34 of the Arbitration and Conciliation Act, to assail the award dated 02.11.2017 / 09.11.2017.
2. The Arbitration Tribunal rendered the award dated 02.11.2017 in favour of the respondent-

claimant for an amount of Rs. 2,50,06,996.57/- along with interest @ 18 % per annum from the due date. There was a typographical/clerical error in the said award, which was corrected by the award dated 09.11.2017. In all other aspects the award was the same, as originally rendered.

3. One of the objections to the impugned award raised by the appellant was with regard to grant of interest @ 18 per cent per annum. The learned Additional District Judge, however, did not find merit in the said objection and rejected the same by observing that the appellant could not substantiate the plea that award of interest @ 18% per annum was excessive.
4. The submissions of learned counsel for the appellant before us is that Section 31 (7) (b) of the Arbitration and Conciliation Act provides that a sum directed to be paid by an arbitral award shall, unless the award otherwise directs, carry interest at the rate of two percent higher than the current rate of interest prevailing on the date of the award from the date of the award to the date of payment. The submission is that the award of 18% interest is excessive, inasmuch as, it is beyond the current rate of interest prevailing on the date of award plus 2%, and, therefore, the Arbitral Tribunal should have granted reasons for awarding the higher rate of interest i.e.18% per annum. He further submits that though the award granted

interest at the rate of 18% per annum from the due date, the learned Additional District Judge (Commercial), Dehradun, has directed that the same be paid from the date of the award. His submission is that the court could not have modified the award and to that extent the award could only have been set aside.

5. Having heard learned counsels, we do not find any merit in the present appeal. Section 31(7)(b) itself provides that the award shall carry interest with a rate of 2 % higher than the current rate of interest **“unless the award otherwise directs”**. In the present case, the award provides for payment of interest @ 18 % per annum from the due date. Therefore, Section 31 (7) (b) is not attracted in the facts of the present case. Moreover, it appears that the appellant did not lead any evidence to show as to what was the current rate of interest prevailing on the date of the award, to be able to claim that grant of 18% per annum interest was higher than the current rate of interest prevailing on the date of the award plus 2 %.
6. For this reason, we are of the view that there is no merit in the submissions of learned counsel for the appellant, so far as it relates to the rate of interest granted by the learned Tribunal is concerned.
7. We have noticed above, the award grants interest @ 18% per annum from the due date.

The court found that due date has not been fixed in the award, and, therefore, directed payment of interest from the date of the award. To this extent, the direction issued by learned Additional District Judge (Commercial), Dehradun, is a direction in favour of the appellant and we cannot appreciate as to how the appellant can be aggrieved.

8. For the aforesaid reasons, we do not find any merit in the appeal. The same is accordingly dismissed.

(Sanjaya Mishra, J.)

(Vipin Sanghi, C.J.)

Kaushal