



**Delhi High Court Rules Out
Applicability Of NN Global
Mercantile In Case Of Agreements
Executed By Or On Behalf Of The
Government**



ARBITRATION AND CONCILIATION

Delhi High Court Rules Out Applicability Of NN Global Mercantile In Case Of Agreements Executed By Or On Behalf Of The Government

AUTHOR Aushi Doshi, Neeli Sandesara

PUBLISHED 17 October 2023

The Hon'ble High Court of Delhi (“DHC”), in a recent judgment passed in *M/s. SVK Infrastructures (formally known as M/s. Satya Narain) vs. Delhi Tourism and Transportation Development Corporation Ltd.*^[1], while expounding apposite provisions of the Indian Stamp Act, 1899 (as applicable to Delhi) held that *NN Global Mercantile vs. Indo Unique Flame Ltd.*^[2] shall not apply to the agreements executed by or on behalf of the government.

Brief Facts

In this case, the Petitioner has filed an application under S.11 of the Arbitration and Conciliation Act, 1996 seeking appointment of the sole arbitrator to adjudicate upon disputes which stemmed from a work order.

Submissions of the parties

Counsel for the Respondent raised following 3 (three) rival contentions-

- (i) Non-existence of a valid and subsisting arbitration agreement between the parties as the Petitioner is not a signatory to the work order (there is no privity of contract);
- (ii) Petitioner has approached the HC without first resorting to the dispute resolution channel envisaged under the General Conditions of Contract (“GCC”);
- (iii) Placing reliance on *NN Global Mercantile (supra)*, the agreement being unstamped, cannot be relied upon without the same being impounded in accordance with law. It was further contended that as per the Indian Stamp Act, 1899, stamp duty of Rs. 50/- should be affixed.

In response to the contentions raised by the Respondent, counsel for the Petitioner responded as follows-

Counsel for the Petitioner stated that in this scenario, Petitioner had taken over the assets & liabilities and stepped into the shoes of M/s. Satya Narain (erstwhile sole proprietorship) in whose favour work order was issued. Moreover, the counsel had also placed on record a communication whereby the Respondent had accepted the Petitioner as a successor of M/s. Satya Narain.

While producing and relying on relevant provisions of the Stamp Act, counsel for the Petitioner vehemently stated that the work order shall be interpreted as an agreement executed by the Government, thus the same shall not be subjected to stamp duty.

Decision

The DHC took cognisance of a letter addressed by the Petitioner to the Respondent wherein the Petitioner had requested the Chief Engineer of the Respondent to refer disputes between the parties to the dispute resolution medium, stipulated under the GCC. However, the Respondent failed to act in compliance to the same. Hence, the Respondent has erred in urging this plea.

To summarise further, the DHC on contentions raised by the Respondent, enunciated that the pleas are devoid of any merit and succinctly held that the Petitioner was correct in urging that it is entitled to invoke arbitration in terms of GCC.

On the component of stamp duty, the DHC puts the dilemma at rest by holding that as the agreement was entered into by and on behalf of the Government, the Petitioner's plea that no stamp duty was payable on this work order is plausible.

In view of the aforesaid, consequently, the application of the Petitioner was allowed and an arbitrator was appointed to adjudicate upon the disputes between the parties.

[1] ARB.P. 668/2023

[2] 2023 SCC OnLine SC 495