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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% *Date of Decision: 01st May, 2025*

+ CM(M) 801/2025, CM APPL. 26204/2025 & CM APPL. 26205/2025
ANISH GUPTA

.....Petitioner

Through: Mr. Jairaj Singh, Advocate.

versus

GIRIVAR GLOBAL SOLUTIONS AND SERVICES LLP & ORS.

.....Respondent

Through: Mr. Deepak Chopra, Advocate for
R-3.

CORAM:

HON'BLE MR. JUSTICE MANOJ JAIN

J U D G M E N T (oral)

1. Heard.
2. Learned counsel for the petitioner (respondent No.1 before the learned Arbitral Tribunal) submits that even, commonsensically, the person, who enters into the witness box or tenders affidavit for the purposes of examination-in-chief, should be offered for cross-examine. He submits that the cross-examination, thus, should be of the same person, and of none other.
3. He submits that earlier the affidavit of examination-in-chief had been submitted by one Ms. Shikha Gupta and for the purposes of cross-examination, the claimant produced her attorney Mr. Satish Gupta and the respondents were asked to cross-examine such person.
4. However, when objection in this regard was raised, such objection was discarded by the learned Arbitral Tribunal *vide* order dated 10.12.2024 and the petitioners were, rather, impressed upon to cross-examine said Mr. Satish



Gupta only.

5. Fact, however, remains that when the matter was taken up by the learned Sole Arbitrator on 30.01.2025, the above order, which was not proper, seems to have been reviewed *suo moto* and now the learned Sole Arbitral Tribunal has ordered as under:-

“6. On perusal of the record, it is evident that filing of the Affidavit of Ms. Shikha Gupta and being tendered by Mr. Salish Gupta is prima facie a mistake on account of the counsel for the Claimant and that it is settled law that mistake of a counsel should not jeopardize the interest of the parties and that the matter at hand should be tried on its merits rather than on technicalities.

7. Hence, in the interest of justice, Jet Ms. Shikha Gupta be present before the Tribunal on the next date of hearing to be cross examined by the Respondents. Furthermore, Respondent No. 2 shall have full right to cross examine the said witness and the statement made by him on 10.12.2024 stands revoked. He shall have full right and liberty to cross examine all and every witness of the Claimant.”

6. Learned counsel for the petitioner, in all fairness, admits that, as on date, an appropriate order has now been passed by the learned sole Arbitrator, but supplements that the earlier order dated 10.12.2024 was not legally sustainable and he also raises a question mark with respect to the manner in which the order has been reviewed *suo moto* by the learned Sole Arbitrator.

7. Learned counsel for *M/s. JK Exim Pvt. Ltd.*, who is respondent No.3 herein (respondent No.2 before the learned Arbitral Tribunal), is present on advance notice.

8. Be that as it may, since the cross-examination has to be of the same person, who tenders evidence in examination-in-chief, and the position has now been rectified by the learned Arbitral Tribunal, this Court does not find any necessity of interfering in the matter by invoking its supervisory powers under Article 227 of Constitution of India. Even if the amend has been made



suo moto, by Sole Arbitrator, the impugned order does not, at present, suffer from any illegality, perversity or absurdity.

9. In view of the above, the present petition is hereby dismissed.
10. Pending applications, if any, stand disposed of.

(MANOJ JAIN)
JUDGE

MAY 1, 2025/ss/pb