

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

**CIVIL APPEAL NO. 10121 OF 2013**  
(Arising out of SLP(C) No.18213/2012)

NATIONAL AGR.CO-OP. M.F.O.I.LTD. (NAFED) Appellant(s)  
:VERSUS:  
M/S. EARTHTECH ENTERPRISES LTD. Respondent(s)

**O R D E R**

Leave granted.

2. Heard Mr. T.K. Ganju, learned senior counsel in support of this appeal and Mr. Manish Gandhi, learned counsel appearing for the respondent. This appeal seeks to challenge the order dated 17.11.2011 passed by the Division Bench of the Delhi High Court whereby the Division Bench has set aside the order dated 8.4.2011 passed by the learned Single Judge in O.M.P. No. 276/2011 and I.A. Nos. 5785-86/2011.

3. The proceeding before the learned Single Judge was an objection by the respondent herein to the interim award rendered by the Arbitrator. The Arbitrator had rendered an interim award on 24.1.2011 directing the respondent herein to pay Rs.90 crores to the appellant herein. That was on the basis of an earlier order of the Division Bench of the Delhi High Court dated 1<sup>st</sup> July, 2009 read with order dated 22<sup>nd</sup> May, 2009. The earlier order of the Division Bench had recorded that the respondent's liability to the extent of Rs.90 crores was totally undeniable. The respondent had not challenged that order. That being so, no fault could be found with the interim award of the Arbitrator directing the respondent to pay Rs.90 crores to the appellant. Learned Single Judge was, therefore, right in rejecting the objection to the award. The Division Bench had no reason to interfere therewith.

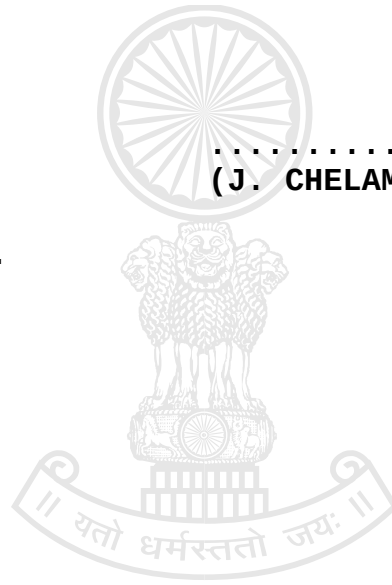
4. In the circumstances, for the reasons mentioned above, the impugned order passed by the Division Bench is set aside, the order of the

learned Single Judge is restored and the appeal is allowed accordingly. In the facts and circumstances of this case, there shall be no order as to costs.

.....J  
(H.L. GOKHALE)

.....J  
(J. CHELAMESWAR)

New Delhi;  
November 11, 2013.



JUDGMENT