**Highlights:**

### Corporate Brief

- *SEBI amended the Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.*

### RERA Brief

- *Circular issued by Maharashtra RERA on 08.11.2021 to streamline the process of hearing and disposal complaints.*
- *Order issued by Gujarat RERA on 10.11.2021 mandating the requirements for Project Completion Compliance.*
- *Order issued by Kerala RERA on 15.11.2021 to streamline the process of application and registration of projects.*
- *Order issued by U.P. RERA on 17.11.2021 stating SOP for withdrawal of Projects registered with U.P. RERA.*
- *Corrigendum issued by Uttar Pradesh RERA on 24.11.2021 to resolve the pre-bid queries with respect to the tender bid relating to construction of UP RERA BUILDING.*
- *Introduction of Rajasthan Real Estate (Regulation and Development) (Second Amendment) Rules, 2021 by Rajasthan RERA on 29.11.2021.*

### NCLT Brief

- *Shailendra Singh Vs. Nisha Malpani, RP of NIIL Infrastructure', Company Appeal (AT)(INS) No.945 of 2020*

### Litigation Brief

- *The Supreme Court has defined the constitutional validity and ambit of Real Estate (Regulation and Development) Act, 2016 ("RERA Act").*
- *Arbitration and Conciliation Act: Raising new grounds to set aside Arbitral Award permissible in appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996.*

## *Corporate Brief*

### Vide Circular No. "CG-MH-E-10112021-230992" dated 10.11.2021, of Securities and Exchange Board of India, ('SEBI'):

It was decided that:

- **Amendment of Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) Regulations, 2015.**

SEBI has published Securities and Exchange Board of India (Listing Obligations and Disclosure Requirements) (Sixth Amendment) Regulations, 2021. The amendment shall come into force on 1st April, 2022.

As per the amendment regulations:

- Any person/ entity who is a part of the promoter of a listed entity or any person/entity holding equity shares of 25% or more or 10% or more w.e.f. 01.04.2023 in the listed entity, either directly or through a beneficial interest, shall be deemed to be a "related party".
- The definition of "Related Party Transaction" now includes, a listed entity/ its subsidiaries and any other person or entity, whose purpose is to benefit a related party of a listed entity.
- The said definition of "Related Party Transaction" now does not include, issue of preference shares; corporate actions by a listed entity which are uniformly applicable to all shareholders; acceptance of fixed deposits by banks/NBFCs.
- Previously, the explanation in sub-regulation (1) of regulation 23, stated that the transaction with a related party was considered material if the threshold limit of it exceeded 10% of the annual consolidated turnover of the listed entity, however, the limit has now been increased to Rs. one thousand crore or 10% of the annual consolidated turnover of the listed entity, whichever is lower.
- The following additions have been made to the proviso after regulation 23(2):
  - The audit committee shall define "material modifications", to be disclosed as a part of policy on materiality of related party transactions.
  - The subsidiary of a listed entity which is a party to a related party transaction but the listed entity is not a party, shall require prior approval of the audit committee of a listed entity; if the value of such transaction exceeds 10% of the annual consolidated turnover.
  - W.e.f 01.04.2023, the subsidiary of a listed entity which is a party to a related party transaction but the listed entity is not a party, shall require prior approval of the audit committee of a listed entity; if the value of such transaction exceeds 10% of the annual standalone turnover.

- Such prior approval shall not be required by such subsidiary, if such subsidiary has listed its securities on any recognised stock exchange and a policy on materiality of related party transactions has been formulated by it.
- In sub regulation (4), a proviso has been added stating that a prior approval of shareholders of a listed entity shall not be required for a subsidiary of a listed entity which is a party to a related party transaction but the listed entity is not a party, if such subsidiary has listed its securities on any recognised stock exchange and a policy on materiality of related party transactions has been formulated by it.
- A new clause 5(c) has been added, which exempts the application of sub-regulations (2), (3) and (4) in case two wholly-owned subsidiaries of a listed holding company enter into a transaction and their accounts are consolidated with the listed holding company, and placed before the shareholders at the general meeting for approval.
- Sub regulation (7) has now been omitted. It stated that all entities defined as related parties shall not vote to approve the relevant transaction, irrespective of whether the entity was a party to the said transaction or not.
- Previously, sub regulation (9) mandated that the listed entity must submit the disclosures of related party transactions on a consolidated basis to stock exchanges within 30 days from the date on which its standalone and consolidated financial results for the half year are published. Now, the amended regulation states that the listed entity shall submit to the stock exchanges, disclosures of related party transaction in the format as specified by the Board, provided that a 'high value debt listed entity' shall submit such disclosures along with its standalone financial results for the half year; provided further that the listed entity shall make such disclosures in every 6 months within 15 days from the date on which its standalone as well as consolidated financial statements have been published. Such disclosure requirements shall come into effect from 01.04.2023.

- In Schedule II, point 2 of para B of part C has now been omitted. It mandated the audit committee to review the management discussion and analysis of financial condition and results of operations, along with the statement of significant related party transactions (as defined by the audit committee) which was submitted by management.
- In Schedule V, the following amendments have been made:
- The listed entity which has "listed its non-convertible securities" shall now make disclosures complying with the Accounting Standards on "related party disclosures".
  - A new clause shall be inserted after clause 10(1) under para C, which states that disclosure by listed entity and its subsidiaries of "loans and advances in the nature of loans to firms/companies in which directors are interested by name and amount". Provided, all listed entities barring listed banks shall be subject to this requirement.

## *RERA Brief*

➲ **Circular issued by Maharashtra RERA ("MahaRERA") to streamline the process of hearing and disposal complaints.**

MahaRERA, vide circular no. 38/2021 dated 08.11.2021, has laid down further procedure to be followed during hearings conducted by the MahaRERA Conciliation and Dispute Resolution Forum, in case of online complaints referred for

conciliation by MahaRERA, so as to achieve speedy disposal of complaints. The process is as follows:

- The hearing of a complaint before the Conciliation Bench must be completed within a period of 60 days from the date on which the first hearing takes place.
- If during such hearing, it appears that the matter is not progressing towards settlement, then such complaint must be referred back to the MahaRERA within a period of 60 days.
- Whereas, if the Conciliation Bench opines that the complaint has scope for settlement, but the settlement terms cannot be finalized within the 60 day-period referred to above, then in the interest of the parties, hearings can take place even post the expiration of the 60-day period. However, in any event, the extended period should not exceed 30 days. In such cases, it is imperative to submit an intimation to the Secretary of MahaRERA.
- Complaints that have been concluded either as 'settled' or 'failed' should be referred to the MahaRERA within a period of one week, for it to take an appropriate decision based on the merits of the case.

➲ **Order issued by Gujarat RERA mandating the requirements for Project Completion Compliance.**

Gujarat RERA, vide its order dated 10.11.2021, has mandated the following requirements for Project Completion Compliance as per Authority Order No. 30 of 27.09.2019:

- Submission of the following documents:

  -An affidavit declaring the completion of the project

  -Architect Certificate in Form – 4 (as per Order 20)

  -Building Use Permission/ Occupancy Certificate

  -Society Registration Certificate

  -All applicable No Objection Certificates ("NOCs")
- Promoters are directed to ensure that the aforesaid Order No. 30 issued by Gujarat RERA is complied with, and that all certificates / documents along with applicable NOCs are duly submitted.
- No processing fee shall be levied on promoters for uploading the BU and Society Registration Certificate on the portal in case they had filed their QE before September 2019 without these documents.
- A processing fee shall be charged for uploading the aforementioned documents on the portal, for promoters who had filed their QE after September 2019. The fee shall be:-

  Rs. 10,000 for project cost less than Rs. 25 crores; Rs. 20,000 for project cost more than Rs. 25 crores and less than Rs. 50 crores; Rs. 40,000 for project cost more than Rs. 50 crores and less than Rs. 100 crores; and Rs. 60,000 for project cost more than Rs. 100 crores.
- Promoters who have not filed their Project Completion Compliance by the completion of the project, but have received the BU and Society Registration Certificate; shall be allowed to file their Project Completion Compliance by paying processing fee up to 31.12.21 as follows:

  Rs. 25,000 for project cost less than Rs. 25 crores; Rs. 50,000 for project cost more than Rs. 25 crores and less than Rs. 50 crores; Rs. 1,00,000 for project cost more than Rs. 50 crores and less than Rs. 100 crores; and Rs. 1,50,000 for project cost more than Rs.100 crores.
- From 01.01.2022 onwards, penal action will be initiated against the promoters who fail to file their Project Completion Compliance.

➲ **Order issued by Kerala RERA to streamline the process of application and registration of projects.**

Kerala RERA, vide its order dated 15.11.2021, stated the following:

- The Authority has decided to proceed with the procedure of application scrutiny in accordance with the merits of the application. It withdrew the order dated 6.01.2021 which relaxed the pre-requisite for a valid building permit by producing an affidavit cum declaration. Henceforth, all applications including those pending registration shall be processed based on

satisfactory submission of genuine supporting documents as required under Section 4 and 11 of the Real Estate (Regulation and Development) Act 2016 read with Rules 3, 4, 5 and 17 of Kerala Real Estate (Regulation and Development) Rules, 2018.

- Mere registration of a real estate project shall not be understood to mean that the details furnished by the promoter are found to be correct by the Authority. The onus of ensuring the authenticity of details of the documents shall be the sole responsibility of the promoters. They must ensure that all required approvals and permits have been received, and that the information provided by them is true. In case the details or documents provided are incorrect or deficient, it will lead to litigations and may attract penalties against the promoter under Section 60 of the Real Estate (Regulation & and Development) Act, 2016.
- For projects intended to be developed in phases, the application for registration of each phase shall be enclosed with approved development permit / layout plan for the entire project area. This is because every such phase will be considered as a standalone real estate project.
- In case of registration of projects where the number of proposed plots exceeds eight, as provided under Section 3(1) & (2) of the Act, the competent authority shall issue the development permit.

➲ **Order issued by U.P. RERA stating SOP for withdrawal of Projects registered with U.P. RERA.**

U.P. RERA Authority, vide order dated 17.11.2021, has stated the SOP (Standard Operating Procedure) for withdrawal of Projects registered with U.P. RERA.

➲ **Corrigendum issued by Uttar Pradesh RERA to resolve the pre-bid queries with respect to the tender bid relating to construction of UP RERA BUILDING.**

Vide a corrigendum dated 24.11.2021, the Uttar Pradesh RERA stated the following:

- In case a bidder does not have the audited balance sheet for the financial year 20-21, they can provide a provisional balance sheet and the GST return for the said period.
- The requirement for a bank solvency/net worth certificate (certified by a CA) has been reduced from Rs. 2000 lakh to Rs. 1000 lakh.
- In order for the tender to be eligible, the requirement for 'three similar nature of works' has been reduced from Rs. 1250 lakh to Rs. 1000 lakh.
- In the criteria for eligibility for pre-qualification of bidders, the requirement for 'three similar nature of works' has been reduced from Rs. 1250 lakh to Rs. 1000 lakh.
- The last date for online submission of documents on the Tender Portal has been extended from 24.11.2021, to 6.12.2021 now.
- The date for online opening of technical bid has been extended from 24.11.2021 to 06.12.2021 now.

➲ **Introduction of Rajasthan Real Estate (Regulation and Development) (Second Amendment) Rules, 2021 by Rajasthan RERA.**

Rajasthan RERA, vide a notification dated 29.11.2021, released the amended Rules. In clause (D) of sub-rule (1) of rule 16 of the 2017 Rules, "fifteen days" shall be replaced by "one month".

## *NCLT Brief*

➲ **Shailendra Singh Vs. Nisha Malpani, RP of NIIL Infrastructure', Company Appeal (AT)(INS) No.945 of 2020**

**Brief Factual Background**

This judgement dated 22.11.2021 passed by the Hon'ble National Company Law Appellate Tribunal ("**NCLAT**") delivered through Justice M Venugopal, arises out of an Order dated 23.09.2020 ("**Impugned Order**") passed by the Hon'ble National Company Law Tribunal ("**NCLT**").

In this matter, the Appellant was appointed as the Interim Resolution Professional for the Corporate

debtor on 14.05.2018. The Appellant had a fixed fees of Rs.33,000/- per appearance, along with certain other expenses that had to be paid to the Appellant as per the Invoices raised by him. On 04.09.2018, the Appellant was replaced by the Respondent as Resolution Professional.

However, after the replacement of the Appellant, the fees due to him between 9.08.2018 to 4.09.2018, was not paid to him. The Appellant approached the Hon'ble NCLT, New Delhi Bench and filed a Contempt Application No-A-01 of 2020 in CA-1081/2019 in CP (IB)-560/(PB)/2017 ("**Contempt Application**") This Contempt Application was filed under Section 425 of the Companies Act, 2013 read with Section 12 of the Contempt of Courts Act, 1971 read with Rule 11 of the NCLT, Rules. During, the NCLT proceedings the Respondent averred before the Hon'ble Tribunal that necessary steps would be taken to pay the arrears of fees to the Appellant. The Hon'ble NCLT passed an Order dated 07.11.2019 directing the Respondent to pay the arrears of fee within two days.

The Hon'ble NCLT rejected the Application of the Appellant since it observed that the Contempt Jurisdiction was an extraordinary jurisdiction and that the Hon'ble NCLT was not vested with the Contempt Jurisdiction while dealing with IBC matters.

Aggrieved by the judgement of the Hon'ble Tribunal, the Respondent filed an appeal before the Hon'ble NCLAT.

**Issues before consideration before the Hon'ble NCLAT**

I. ***Whether NCLT and NCLAT could deal with contempt jurisdiction while dealing with matters under IBC?***

**Arguments Advanced by the Appellant**

The Appellant submitted that Article 323B (1) and (3)(b) of the Constitution of India conferred the Legislature with the power to empower the Tribunals with the jurisdiction to punish for the Contempt of Court, through appropriate legislation. Further, they contended that Section 408 and 425 of the Companies Act, 2013 confers upon the National Company Law Tribunal the power to punish for Contempt.

**Arguments Advanced by the Respondent**

- *Powers of contempt vested with National Company Law Tribunal pertains to powers relating to the matters under the Companies Act and not with regard to the I&B Code*- The Respondent had contended that under Section 425 of the Companies Act, 2013, the NCLT was given the power to punish for contempt only for matters relating to the of Companies Act, 2013. The Respondent had relied on the judgement of *Innoventive Industries Vs ICICKI Bank & Anr reported in (2018)1 SCC 407*, to support his contention.
- *Acted in Good Faith*- The Respondent had also contended that he was unable to make payment of the bills since they were not approved by the Members of the Committee of Creditors and the payment of bills were subject to the approval of the Members of the Committee of Creditors. Thus, the Respondent had contended that he had acted in good faith as per Section 233 of the IBC.
- *No Proof*- The Respondent had also contended that the Appellant's bills were without any proof that the Appellant had carried out any work.
- The Respondent had also pointed out that the CIRP of the Corporate Debtor was

completed and Resolution Plan of the Corporate Debtor was approved by the Adjudicating Authority on 26.11.2020.

- The power to punish for contempt relating to matters of Companies Act, 2013 is given to the National Company Law Tribunal as per Section 425 of the Companies Act, 2013 and not with respect to the I&B Code, 2016. In this connection, the Learned Counsel for the 1st Respondent relies on the decision of the Hon'ble Supreme Court of India in 'Innoventive Industries Vs ICICKI Bank & Anr reported in (2018)1 SCC 407.

**Observation and Decision of the NCLAT:**

The Hon'ble NCLAT had observed that Section 425 of the Companies Act, 2013 had conferred the NCLT with the powers to punish for its contempt. The Hon'ble Tribunal noted that the ingredients under the Section 425 do not provide that the provisions of contempt power under the Contempt of Courts Act, 1971 were applicable only with respect of proceedings with respect of the provisions of Companies Act, 2013.

The Hon'ble NCLAT also observed that just because IBC does not specifically mention about the contempt provisions, the NCLT cannot be said to have no powers of contempt which adjudicating matters related to the code. The Hon'ble NCLAT was of the opinion that such restrictive interpretation would hamper the proper implementation of IBC.

Additionally, the Hon'ble NCLAT had also observed that a conjoined reading of Section 408 and 425 of the Companies Act, 2013 makes it clear that the NCLT's power to punish for Contempt does not merely extend to matters relating to the Companies Act, 2013, but also extends to matters relating to the I&B Code, 2016.

The Hon'ble NCLAT observed that the Hon'ble NCLT and the Hon'ble NCLAT have the same jurisdiction, powers and authority in respect of contempt as that of the High Court.

## *Litigation Brief*

➲ **The Supreme Court has defined the constitutional validity and ambit of Real Estate (Regulation and Development) Act, 2016 ("RERA Act").**

**IN THE MATTER OF:** Newtech Promoters and Developers Pvt. Ltd. Vs. State of U.P and Ors. (Civil Appeal No. (S) 6745-6749 of 2021 (Judgment passed by the Hon'ble Supreme Court on 11.11.2021)

***Issues:***

- Whether the Regulatory Authority has exclusive jurisdiction to refund the amount under Section 12, 14, 18 and 19 of RERA Act or the jurisdiction lies with the Adjudicating Officer under Section 71 of RERA Act?
- Whether RERA Act is retrospective or retroactive in its operation and what will be its legal consequence?
- Whether the Section 81 of RERA Act authorizes the Regulatory Authority to delegate its powers to a single member of the Authority to hear complaint under Section 31 of RERA Act?
- Whether the condition of pre-deposit under proviso to Section 43(5) of RERA Act for entertaining substantive right to appeal is sustainable in law?
- Whether the Regulatory Authority has power to issue recovery certificates for recovery of the principal amount under Section 40(1) of RERA Act?

***Facts:***

1. The captioned matter emanates from the order passed by the single member of the UPRERA Regulatory Authority (hereinafter referred to as "**UPRERA Authority**") on the complaints of the

home buyers, directing the promoters to refund the principal amount along with the interest (***MCLR+1%***) as prescribed by the State Government under the RERA Act.

2. The Respondents herein are the allottees/homebuyers who made substantial investments in various real estate projects to several real estate developers. In the ordinary course of business, the order of the UPRERA Authority is appealable under Section 43(5) of the RERA Act provided the statutory compliance of pre-deposit being made under proviso to Section 43(5) before the Appellate Tribunal whereas, the real estate developers/promoters approached the Allahabad High Court by filing the writ petition under Article 226 and 227 of the Constitution of India questioning the order the passed by the UPRERA Authority holding it to be without jurisdiction as it has been passed by single member of the UPRERA Authority.

3. As per the contentions of the real estate developers, the order passed by the Ld. Single Member of UPRERA Authority holds no jurisdiction to pass orders of refund of the amount as envisaged under Section 18 of RERA Act and in addition, also challenged the condition of pre-deposit for filing of a statutory appeal.

4. The real estate developers being aggrieved by the orders passed by the Allahabad High Court and on dismissal of their writ petition, approached the Apex Court seeking relief and filed batch of appeals.

***Court's Observations:***

- The Apex Court has constitutionally validated the challenged provisions of RERA Act. The Court settled principle of law vide its judgment with respect to appeals emanating against UPRERA Authority jurisdiction and its working.

- The Court while deciding the first issue, decided that the power of adjudication delineated with UPRERA Authority and Adjudicating Officer, that the conjoint reading of Section 18, 19 clearly manifests that refund of the amount, and interest on the refund amount or directing payment of interest for delayed delivery of possession or penalty and interest thereon, it is the UPRERA Authority which has the power to examine the outcome of complaint. Simultaneously, seeking relief for compensation under Section 12, 14,18 and 19 of RERA Act, the Adjudicating Officer exclusively has the power to determine, keeping in view the collective reading of Section 71 read with Section 72 of the RERA Act.

- The Court took appropriate note and decided that the application of RERA Act is retroactive and the and the real estate projects already completed or to which completion certificate has been granted are not under its fold and therefore, vested or accrued rights, if any, in no manner are affected. Concurrently, it will apply after getting the on-going projects and future projects registered under Section 3 of RERA Act to prospectively follow the mandate of the RERA Act.

- Answering the third issue, the Court was of the view that the power of delegation under Section 81 of the RERA Act by the UPRERA Authority to one of its members for deciding complaints under Section31 of RERA Act is not well defined but expressly permissible and it cannot be said to be dehors the mandate of law.

- The Court, answering the fourth issue, held that the condition of pre-deposit imposed on promoters for filing appeals under Section 43(5) of RERA Act, is neither violative nor discriminative of Articles 14 and 19(1)(g) of the Constitution of India. The legislature in its wisdom

intended to ensure that money once determined by the Regulatory Authority be saved if appeal is to be preferred at the instance of promoter after due compliance of pre-deposit. The Court noted that the promoters ought to show their bonafides by depositing the amount so contemplated.

- The Court decided the fifth issued and observed that the amount which has been determined and refundable to the allottees/home buyers either by the UPRERA Authority or the Adjudicating Officer in terms of the order is recoverable within the ambit of Section 40(1) of RERA Act.

➲ **Arbitration and Conciliation Act: Raising new grounds to set aside Arbitral Award permissible in appeal filed under Section 37 of the Arbitration and Conciliation Act, 1996.**

**IN THE MATTER OF:** State of Chhattisgarh & Anr. Vs. M/s Sal Udyog Private Limited (Decided by Hon'ble Supreme Court of India on 08.11.2021) – Civil Appeal No. 4353 of 2010

***Issues:***

1. Whether the High Court was correct in declining to exercise its jurisdiction to set aside the award merely because the said ground had not been raised before the District Judge under Section 34 of the Arbitration and Conciliation Act, 1996 ("the Act")?

***Facts:***

1. That on 30.08.1979, the State of Madhya Pradesh entered in an agreement with the Respondent-Company to supply 10,000 tonnes of Sal seed per annum for a period of 12 years ("the Agreement"). In 1987, the government of Madhya Pradesh faced losses and decided to annul all the agreements in relation to the forest produce, by enacting a legislation[1]. However, the said Act was notified after a decade on 01.01.1997. During this period, the agreement between the parties was renewed on 30.04.1992 and it was valid till 29.04.2004.

2. The State of Madhya Pradesh terminated the Agreement on 30.04.1992. Aggrieved by the termination, the Respondent-Company invoked Arbitration Clause vide notice dated 06.12.1999 seeking a refund amount of Rs. 1,72,17,613/-. As per the Arbitral Award dated 17.02.2005, the claim amount of Rs. 7,43,46,772/-, payable with an interest rate of 18%, was awarded in favour of the Respondent-Company.

3. Aggrieved by the aforesaid award, the Appellant-State filed a petition under Section 34 of the Act. Vide order dated 14.03.2006, the District Judge declined to interfere with the Award except for modifying the extent of the interest awarded in favour and from the date payable. The Appellant-State preferred an Appeal under Section 37 of the Act and a Cross Appeal was also filed by the Respondent-Company aggrieved by the modification of the award by the District Judge.

4. In view of the order dated 30.04.2010 passed by the High Court under Section 37 of the Act, the present Appeal was filed. The Counsel for the Respondent-Company argued that since the Appellant-State had failed to raise the issue relating to the deduction of the 'supervision charges' in its Section 34 petition, it shall be assumed that it had waived its right to take any such plea in the Section 37 petition before the High Court and also before the Supreme Court. The Appeal is limited to the issue of disallowance of the Supervision charges to the amount of Rs. 1.49 crores under the award, which as per the Appellant-State, was liable to be borne by the Respondent-Company under the Agreement.

[1] M.P. Van Upaj Ke Kararon Ka Punarikshan Adhiniyam No. 32 of 1987.

***Court's Observations:***

- The Court observed that the plea of waiver taken by the Respondent- Company against the Appellant-State, on the ground that issue of disallowance had not been raised as an objection in the grounds taken under Section 34 petition of the Act, would not be sustainable in view of the language of Section 34(2A). Section 34(2A) of the Act gives the Court the power to set aside an award if it appears to be vitiated by patent illegality and is open to the Court, while hearing Section 37 petition also, to interfere by resorting to it.

- Therefore, once the Appellant-State has taken the ground in Section 37 petition and it had been duly noted in the impugned judgement, the High Court ought to have interfered by restoring Section 34(2A) of the Act, which is equally available for application to an appealable order under Section 37 as to a petition under Section 34 of the Act.

- Therefore, stating that it does not stand in reason that a provision that enables the Court acting on its own in deciding a petition under Section 34 of the Act for setting aside an award, would not be available in an Appeal preferred under Section 37 of the Act.

- The Apex Court while partly allowing the Appeal observed that "failure on the part of the learned Sole Arbitrator to decide in accordance with the terms of the contract governing the parties, would certainly attract the "patently illegality ground" as the said oversight amounts to gross contravention of Section 28(3) of the Act, that enjoins the Arbitral Tribunal" to take into account the terms of the contract while making an Award. The said 'patent illegality' is not only apparent on the face of the award, it goes to the very root of the matter and deserve interference."

Therefore, the Appeal is allowed to the extent, that deduction of 'supervision charges' that had to be recovered from the Respondent-Company on behalf of the Appellant-State as a part of the expenditure incurred on the Sal seeds, is quashed a

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