

BEFORE SHRI SURESH CHANDRA  
LAW SECRETARY AND APPELLATE AUTHORITY  
MINISTRY OF LAW & JUSTICE, DEPARTMENT OF LEGAL AFFAIRS  
ROOM NO. 404, 'A' WING, SHASTRI BHAVAN, NEW DELHI-110001

**Review Petition No. RA/ 06/2016-LS (SC)**

**IN THE MATTER BETWEEN:**

M/S BALMER LAWRIE & COMPANY LIMITED  
21-NETAJI SUBHAS ROAD,  
KOLKATA – 682302

REVIEW PETITIONERS

V/s

M/S OIL & NATURAL GAS CORPORATION,  
PT. DEEN DAYAL UPADHYAYA URJA BHAWAN,  
NELSON MANDELA MARG, VASANT KUNJ,  
NEW DELHI - 110070

RESPONDENTS

**ORDER**  
**DATE: 19.11.2016**

This second Review Petition has been filed by the M/S Balmer Lawrie & Company Limited (hereinafter called as 'the Review Petitioners') against the impugned review order dated 29-03-2016 passed by the then Law Secretary & Learned Appellate Authority ( Sh. P.K. Malhotra) in respect of the Appellate order dated 19.01.2015 passed by the Member Secretary and Learned Appellate Authority (Dr. S.S. Chahar) in Appeal No. 09/LS/2012 which arose out of an appeal preferred against the award of the Ld. Sole Arbitrator (Dr. Geeta Rawat) dated.20-04-2012 in case no. PMA/Dr. GR/04/2010.

2. The then Law Secretary and Appellate Authority dismissed the first review petition, *inter alia* on the grounds that the first review petition was filed after lapse of 8 months and there was no error or editorial correction in the Appellate order dated 19-01-2015. Thus, aggrieved by the review order dated 29-03-2016, the Review Petitioners filed the present second review petition before me.
3. Succinctly the facts of the case may be recalled as under :-
  - 3.1 The dispute in question between the Review Petitioners and M/S Oil & Natural Gas Corporation (hereinafter called as 'the Respondents') pertains to the imposition of liquidated damages and deduction of an amount of Rs.22,42,446/- for delay in completion of the works contract dated 28.03.2002 for Composite interior work at the Respondent's Corporate Office at 6<sup>th</sup> floor of Jeevan Bharti Bhavan, Connaught Circus, New Delhi.
4. The second review petitions is filed before me challenging the impugned order dated 29.03.2016 *inter alia* on the grounds that the strict provisions of the limitations Act, 1963 are not applicable in the proceedings instituted under the PMA guidelines. Further, the imposition of an amount of Rs. Rs.22,42,446/-for 90 days delay against the Review petitioners by the Respondent is totally unjustified and deserved quashing. It is further submitted by the Review Petitioners that section 152 and order XLVII of Code of Civil Procedure, 1908, the magnum opus of civil law codes *inter alia* guiding Arbitration matters in India provides for all sorts of corrections, or omissions or accidental slips which may be corrected by the civil courts *suo motu* or an Appeal and the tenets of the natural justice demands that these relevant points could have been



heard by the Revisioning / Reviewing Authority. The Review Petitioners have further argued that the jurisdiction to entertain second review petition is implicit in the power to review the order mentioned in the provisions of PMA.

4.1 The Respondents have opposed the present petition on the grounds that the second review petition is based on the merits and is not maintainable as per the PMA guidelines. The Respondents have further requested that the present second Review Petition may be dismissed.

5. I have heard both the parties, dwelt upon the pleadings and relevant material placed before me during the proceedings and framed the following issue:

**“Whether the second review petition is maintainable in light of the guidelines of the PMA?”**

5.1 Para X of the PMA a guidelines which is relevant for deciding the issue reads as under:

**“X. APPEAL**

*The Award of the sole Arbitrator under the PMA shall be binding upon the parties to the dispute. The aggrieved party may file an appeal before the Law Secretary within the period as recorded by the Arbitrator in the Award for implementation. This time limit may be kept in view while filing an appeal before the Law Secretary. The law secretary or special Secretary/ Additional Secretary, when so authorized by the Law Secretary, may decide the appeal/ revision on merits and set aside or revise the Award. The matter cannot be remitted back to the Arbitrator for reconsideration. The Appellate*



*Authority will have the power to revise his/her own decision for rectification of any error or for editorial correction etc.*

*Law Secretary, after giving an award on the appeal, will return the records of the case to the PMA. The Arbitrator may also, if he/she thinks fit, make an interim award. However, there shall be no appeal to the Law Secretary against the interim award and both the parties are to await the final award by the Arbitrator."*

6. Perusal of the aforementioned provisions reveals that there is no provision for second review contained under the PMA guidelines. In the case of Mohammed Hasnuddin v. State of Maharashtra, (1979) 2 SCC 572, the hon'ble Supreme Court in para 25 *inter alia* held that;

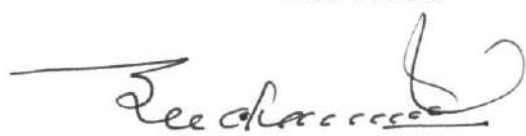
*"Every court or tribunal is not only entitled but bound to determine whether the matter in which it is asked to exercise its jurisdiction comes within its jurisdiction or not.."*

7. Moreover it is well settled principle of law that the *Reipublicae Ut Sit Finis Litium* meaning thereby that the interest of the state lies in ending the litigation and not in dragging the matters. Thus in light of the various judicial pronouncements and legal maxims it cannot be interpreted that the power for second review is implicit in the provisions of PMA relating to review.



8. Therefore, I am of the view that as per PMA guidelines I do not have jurisdiction to entertain the second review petition and accordingly the second review petition is hereby dismissed.
9. As per the prevalent practice both parties are further directed to remit the following honorarium separately by each party by way of demand drafts payable at New Delhi at the address of this office, as all the communications have been done so far for the following officers/staffs member of my office on or before 17.01.2017 for their commendable secretarial/Administrative services rendered in hearing and finalization of this order in the instant case in time in spite of heavy work load of their cases/items of work :-

1. Sh. Dilip Pal, PS	Rs. 3000/-
2. Sh. R.P. Mudgil, PS	Rs. 3000/-
3. Sh. Gaurav Saini, Assistant (Legal)	Rs. 3000/-
4. Sh. Parveen Dogra, SCD	Rs.2000/-
5. Sh. R.K. Bhagat, Senior Peon	Rs. 2000/-
6. Sh. Mohan Prasad, Peon	Rs. 2000/-

  
O/c (SURESH CHANDRA)  
Law Secretary and Appellate Authority

Date- 19-11-2016

Place- Delhi

To:

1. M/S BALMER LAWRIE & COMPANY LIMITED
2. M/S OIL & NATURAL GAS CORPORATION

Copy To:

1. Permanent Machinery of Arbitration
2. Judicial Section, for record.
3. LIMBS team for uploading the order on the LIMBS.

  
(SURESH CHANDRA)  
0/c Law Secretary and Appellate Authority