

**IN THE COURT OF MS. MONIKA GOYAL, PRESIDING OFFICER,
COMMERCIAL DISPUTE TRIBUNAL, LUDHIANA.**

UID No. 0439

CM 421/2019

CNR NO.PBLD01017114-2019

Date of Order : 13.08.2021

1. M/s Rajinder Earthmovers filling Station Pvt. Ltd. ,c/o Star Dhaba,Village Khakh, Pathankot-Jalandhar Road, Post Office Tanda, District Hoshiarpur through S. Rajinder Singh son of Gurmit Singh,Managing Director.

2. S.Rajinder Singh son of Sh. Gurmit Singh, Managing Director, M/s Rajinder Earthmovers Filling Station Pvt. Ltd. C/o Star Dhaba, Village Khakh, Pathankot-Jalandhar Road, Post Office Tanda, District Hoshiarpur.

.....Plaintiffs.

Versus

1. M/s A2 Z Waste Management (Ludhiana) Ltd., Regd. Office At 0-116, 1st Floor, Shopping Mall, Arjun Marg, DLF Phase-I, Gurgaon, Haryana.

2. Shri Amit Mittal, Chief Managing Director, M/s A2Z Waste Management (Ludhiana) Ltd., Regd.Office at 0-116, 1st Floor, Shopping Mall, Arjun Marg, DLF Phase-I, Gurgaon Haryana.

3. Shri Balendra Partap Singh Chauhan, Authorized Signatory, M/s A2Z Waste Management (Ludhiana) Ltd., Regd. Office at 0-116, 1st Floor, Shopping Mall, Arjun Marg, DLF Phase-I, Gurgaon, Haryana.

4. Shri Manoj Khetan, Authorized Signatory, M/s A2Z Waste Management (Ludhiana) Ltd., Regd. Office at 0-116, 1st Floor, Shopping Mall, Arjun Marg, DLF Phase-I, Gurgaon, Haryana.

5. Shri Manoj Gupta, Director, M/s A2Z Waste Management (Ludhiana) Ltd., Regd. Office at 0-116, 1st Floor, Shopping Mall, Arjun Marg, DLF Phase-I, Gurgaon, Haryana.

6. Shri Sandeep Garg, Director, M/s A2Z Waste Management (Ludhiana) Ltd., Regd. Office at 0-116, 1st Floor, Shopping Mall, Arjun Marg, DLF Phase-I, Gurgaon, Haryana.

7. Shri Abhay Garg, Director, M/s A2Z Waste Management (Ludhiana) Ltd., Regd. Office at 0-116, 1st Floor, Shopping Mall, Arjun Marg, DLF Phase-I, Gurgaon, Haryana.

8. Shri Deepak Aggarwal, Joint Managing Director, M/s A2Z Waste Management (Ludhiana) Ltd., Regd. Office at 0-116, 1st Floor, Shopping Mall, Arjun Marg, DLF Phase-I, Gurgaon, Haryana.

..... Defendants.

(Suit for recovery)

Civil Suit No.83/2016
Filing Date: 25.11.2016
Filing No.9354/16
Date of decision: 31.07.2017.

Application for revival of the suit dismissed on 31.07.2017 by the court of Shri K.K. Kareer, Presiding Officer, Commercial Dispute Tribunal, Ludhiana.

Present: Sh. Sandeep Kumar, Advocate for applicants/ plaintiffs.
Sh. Ankur Ghai Advocate for respondents No.1,2 & 5.
Respondents No. 3,4, 6 to 8 exparte.

Arguments of learned counsel for the parties on application filed by applicants/plaintiffs for revival of the suit dismissed on 31.07.2017 for restoration / revival of the suit, heard.

2. Vide instant application, the applicants / plaintiffs have submitted that the plaintiffs filed the above noted suit for recovery, which was entrusted to the court of Shri K.K. Kareer, Presiding Officer, Commercial Dispute Tribunal, Ludhiana. In that suit, the defendants were duly served in the present case and on their appearance, the defendants filed application under Section 8 of Arbitration and Conciliation Act,1996 for reference of the dispute to Arbitrator, which was allowed by the Hon'ble Court and dismissed the suit filed by the plaintiffs/applicants vide order dated 31.7.2017. Thereafter, against the said order, the plaintiffs/applicants filed Revision No.8078/2017 before the Hon'ble High Court of Punjab & Haryana, Chandigarh which was decided on 18.3.2019 by Hon'ble Mr. Justice Raj Mohan Singh and set aside the order dated 31.7.2017 passed by this Hon'ble Court. In the end, it is prayed that the suit dismissed on 31.7.2017 by the court of Shri K.K. Kareer, Presiding Officer, Commercial Dispute Tribunal, Ludhiana is liable to be revived, taken up at its original stage

and decided on merits.

3. Upon notice of the application, respondents/defendants No.1,2 and 5 filed reply to application and contesting the same by raising preliminary objections that the suit filed by plaintiff is based on false facts; the defendant No.2 Amit Mittal is neither the Chief Managing Director nor holding any position in the defendant No.1. The suit as well as the application against Amit Mittal is not maintainable. The suit and the application is bad for misjoinder of parties. On merits, it is submitted that contents of para No.1,2 and 3 are matter of record and remaining contents have been denied being wrong and prayed for dismissal of application. Respondents No.3,4,6 to 8 did appear before the court despite sufficient service and ultimately, they were proceeded against exparte vide order dated 29.11.2019.

4. From the perusal of record, it transpires that vide order dated 31.07.2017 passed by Shri Kuldeep Kumar Kareer, Commercial Dispute Tribunal, Ludhiana, wherein it had been held that application under Section 8 of the Arbitration and Conciliation Act was allowed and the suit filed by the plaintiffs was dismissed with a direction to the parties to seek reference to the Arbitrator by invoking clause i.e 10.1 of the agreement dated 25.05.2013. The plaintiffs, however, would be at liberty to raise the plea of jurisdiction before the Arbitral Tribunal and in case the same is decided in their favour, they shall be at liberty to get the present suit revived. Thereafter, plaintiffs/applicants filed civil revision before the Hon'ble Punjab and Haryana High Court, Chandigarh, which was allowed vide order dated 18.03.2019 and impugned order dated 31.07.2017 passed by the Commercial Dispute Tribunal, Ludhiana was set aside. As the

order dated 31.07.2017 dismissing the suit has been set aside vide order dated 18.03.2019 passed by Hon'ble Punjab and Haryana High Court , thus, this court is of the opinion that the original suit need to be revived at original number and the present application is required to be allowed. Consequently, application is allowed. Suit stands restored at its number and original position. Record of this application be attached with main case.

Announced: 13.08.2021
Vijay Kumar Steno.

Monika Goyal,
Commercial Dispute Tribunal,
Ludhiana.UID No.0439