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\* **IN THE HIGH COURT OF DELHI AT NEW DELHI**  
+ **CS(COMM) 158/2016**  
**BUCON INFRATECH PVT LTD** ..... Plaintiff

Through: Mr. Aviral Tiwari, Adv.

Versus

**RUDRA BUILDWELL PROJECTS PVT LTD** ..... Defendant

Through: Mr. Pankaj Agarwal, Adv.

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**ORDER**

% **17.04.2017**

1. The suit is ripe for framing of issues.
2. The plaintiff has sued for recovery of Rs.1,09,91,023/- with *pendente lite* and future interest.
3. The suit came up first before this Court on 8<sup>th</sup> March, 2016 i.e. after the minimum pecuniary jurisdiction of this Court stood enhanced to above Rs.2 crores. However the suit was filed in this Court labelling the same as a commercial dispute and was entertained.
4. The defendant also on receipt of summons or in its written statement did not raise any plea of the suit being not a commercial dispute.
5. However on perusal of the pleadings for the purpose of framing of issues, it appears that the suit is not a commercial dispute.
6. The claim of the plaintiff for recovery of money from the defendant is towards the value of the electrical work done by the plaintiff for the defendant. Though the plaintiff has labelled the suit as a commercial suit but in the plaint has not pleaded as to how it is a commercial dispute within



the meaning of Section 2(1)(c) of the Commercial Courts, Commercial Division and Commercial Appellate Division of High Courts Act, 2015.

7. The counsel for the plaintiff on enquiry and on being asked to justify the Clause of Section 2(1)(c) supra under which the present suit would fall, refers to Clause (vii) of Section 2(1)(c) of the Act which provides for disputes arising of “agreements relating to immovable property used exclusively in trade or commerce” to be commercial disputes.

8. The electrical works, value whereof is claimed in the suit were for a Group Housing Project at “PALACE HEIGHTS”, Noida Extension.

9. The counsel for the plaintiff however calls it a commercial contract.

10. All commercial contracts are not provided to give rise the commercial disputes. The counsel for the plaintiff himself has referred only to Clause (vii) of Section 2(1)(c) of the Act which is in relation to immovable property used exclusively in trade or commerce. The property on which the plaintiff claims to have done work is described as a Group Housing Project.

11. The suit has clearly been wrongly instituted in this Court.

12. Let the plaint be returned to the plaintiff for presentation in the Court of appropriate jurisdiction.

**RAJIV SAHAI ENDLAW, J**

**APRIL 17, 2017**

‘gsr’..