

**IN THE HIGH COURT OF DELHI AT NEW DELHI 12.08.2009**

**Present: Mr. Sanjeev Kumar Sabharwal, Sr. Standing counsel with Mr. Arvind Kuamr Verma and Mohan Parsad Gupta, Jr. Standing Counsel for the appellant.**

**I.T.A. No.528/2009 RAMPUR ENGINEERING CO. LTD.**

**Following two substantial questions of law arise for consideration:**

*Whether learned ITAT erred in allowing claim of the Assessee for breach of contract committed/claimed in 1995 in the Assessment year 2003-04?*

**Whether learned ITAT erred in allowing claim against the Assessee as accrued liability, when admittedly neither the amounts were paid nor the same could be recovered without the permission of BIFR, which otherwise had opined for winding up of the company?**

*In so far as question No.1 is concerned, we are of the opinion that Tribunal rightly held that merely on making award under the Arbitration Act, 1940, no liability could be ascertained till the said award was made rule of the Court. The Tribunal has relied upon the judgment of this Court in Fazilka Electric Supply Co. Ltd., 143 ITR 551. Therefore this question is covered by the aforesaid judgment.*

**Issue notice on second question to the respondent, returnable on 18th November, 2009.**

**A.K.SIKRI, J**

**VALMIKI J.MEHTA, J**

**August 12, 2009**