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

+ ARB.P. 417/2016

EMERSON PROCESS MANAGEMENT INDIA
PRIVATE LIMITED

..... Petitioner

Through: Mr Abhinav Hansaria, Mr Archit
Virmani and Mr Tushar A. John,
Advocates.

versus

FERNAS CONSTRUCTION INDIA PVT LTD Respondent

Through: Mr K.C. Dubey, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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17.08.2016

1. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'). It is stated that the respondent entered into an EPC Contract with EIL for design, procurement/supply of items (including transportation), installation, testing and commissioning of South Jetty Pipe Line Project of M/s IOCL at Paradip, Orissa.

2. In connection with the aforesaid project, the respondent circulated General Terms and Conditions of purchase for procuring electronic transmitters. The petitioner states that thereafter negotiations were held between the parties and pursuant thereto a Purchase Order, being Purchase

Order No. FCIPL/PL-02/SJPL/PO/185 dated 22.05.2012, for purchase of electronic transmitters was placed on the petitioner.

3. The petitioner states that certain disputes have arisen in connection with the aforesaid Purchase Order and, consequently, the petitioner invoked the arbitration clause by a letter dated 14.05.2016. However, the Arbitrator has not been appointed as yet.

4. Admittedly, the disputes between the parties arising out of or in connection with the aforementioned Purchase Order are to be resolved through Arbitration. The relevant arbitration clause reads as under:-

"25 Arbitration

Unless otherwise specified in all cases of dispute that cannot be settled by mutual negotiations, the matter shall be referred to arbitration in accordance with the Arbitration and Conciliation Act, 1996 of India with seat at Delhi. Work under the Contract shall be continued by the Supplier during arbitration proceedings unless otherwise directed in writing by the Purchaser. All disputes shall be subject to the sole jurisdiction of the Delhi Courts alone."

5. Accordingly, it is directed that an Arbitrator be appointed under the Rules of the Delhi International Arbitration Centre (DAC). The representatives of the parties shall appear before the co-ordinator, DAC on 26.09.2016 at 11:00 a.m. The arbitration shall be conducted under the aegis

of DAC and in accordance with its Rules.

6. The petition is disposed of.

AUGUST 17, 2016
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VIBHU BAKHRU, J