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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 594/2016

**CENTRAL RAILSIDE WAREHOUSE COMPANY
LTD**

..... Petitioner

Through: Mr. Ashish Kumar Tiwari, Advocate.

versus

BETA EXIM PVT.LTD

..... Respondent

Through: Mr. Indresh Upadhyay with
Mr. Saksham Dhingra, Advocates.

CORAM: JUSTICE S.MURALIDHAR

ORDER

08.11.2016

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1. This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996 ('Act') filed by the Petitioner against the Respondent seeking the appointment of an Arbitrator to adjudicate the disputes between the parties.
2. Learned counsel for the Respondent at the outset sought time to file a reply to the present petition.
3. When enquired what the objections to the appointment of an Arbitrator were, the learned counsel for the Respondent pointed out that the representation made by the Petitioner at the time of execution of the agreement between the parties regarding holding a lease from the railways in respect of running of the Parcel Cargo Express Train from Chalakudi to

Moga on round trip basis was not correct. According to the Respondent, there is no such lease at all. However, learned counsel for the Respondent does not dispute that the agreement between the parties was in fact entered into on 27th February 2015 and this agreement contains an arbitration clause.

4. It is also not in dispute that the Petitioner had sent a notice to the Respondent on 17th March 2016 invoking the arbitration clause and again on 21st April 2016.

5. The second objection concerns the limitation within which the claim has been made by the Petitioner. The Court is of the view that the question of the invocation of the arbitration clause or of any of the claims of the Petitioner being time barred can be examined by the Arbitrator.

6. The Court finds no impediment to the appointment of an Arbitrator. Accordingly, this Court proposes that Ms. Justice Reva Khetrapal, a former Judge of this Court (Mobile No.9871300030; 9810167225) be appointed as sole Arbitrator to adjudicate the disputes between the parties including their claims and counter-claims. The arbitration shall take place under the aegis of the Delhi International Arbitration Centre ('DAC'). In the first instance the proposed Arbitrator will make a disclosure to the DAC in terms of Section 11 (8) read with Section 12 (1) of the Act and thereafter enter upon reference. DAC will provide to the parties copies of the said disclosure. In the event the disclosure is not made within a reasonable time or such disclosure discloses the inability of the proposed Arbitrator to act as such, it will be open to the parties to apply to this Court for directions.

7. Subject to compliance with the above direction, Ms. Justice Reva Khetrpal will act as Arbitrator and enter upon reference. The fees of the learned Arbitrator will be in terms of the Delhi High Court Arbitration Centre (Arbitrators' Fees) Rules.

8. The petition and the applications are disposed of. A copy of this order be communicated to the Ms. Justice Reva Khetrpal as well as Additional Coordinator, DAC forthwith.

S.MURALIDHAR, J

NOVEMBER 08, 2016

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