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

+ **ARB.P. 311/2015**

UNITECH POWER TRANSMISSION LTD Petitioner
Through: Mr. S.K. Maniktala, Mr. R.K. Choudhry &
Mr. Swetab Kumar, Advocates.

versus

M/S ISOLUX CORSAN SOMA (JV) & ORS. Respondents
Through: Mr. Deepak Khurana, Advocate.

CORAM: JUSTICE S.MURALIDHAR

ORDER

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26.10.2016

1. The objection raised by the Respondents to the appointment of the Arbitrator is that no part of the cause of action arose in Delhi and therefore, the parties could not confer jurisdiction of the arbitration exclusively on the Courts in Delhi.

2. What is apparent is that there is an arbitration clause in the agreement between the parties identifying the place/venue of arbitration in Delhi. It also identifies the jurisdiction of Delhi courts.

3. The decision of the Constitution Bench in *Bharat Aluminium Company v. Kaiser Aluminium Technical Services, Inc. & Ors.* (2012) 9 SCC 552 recognises the jurisdiction of two courts i.e., the court within whose jurisdiction the arbitration takes place and the court within whose jurisdiction the cause of action arises. The decision in *Bharat Aluminium Company & Ors.* (supra) confers jurisdiction on either of the courts.

4. In terms of the decision in *Swastik Gases Private Limited v. Indian Oil Corporation Limited (2013) 9 SCC 32* where one of the Courts can have jurisdiction, an agreement between the parties to confer jurisdiction on one of them would not be invalid.

5. Consequently, the objection raised by the Respondent is hereby negatived.

6. With the consent of the parties, Mr. Justice S.B. Sinha, former Judge, Supreme Court of India is appointed as the sole Arbitrator to enter upon reference and adjudicate the disputes between the parties. Justice Sinha will decide his terms and fees and communicate it to the parties. A tentative date of first hearing before the learned Arbitrator is fixed on 25th November, 2016 at 11:00 a.m. at a venue to be fixed by the Petitioner and communicated to the learned Arbitrator one week in advance. The expenses thereof will be shared by the parties equally. If the above date and/or time is not convenient to the learned Arbitrator, he will communicate the changed date and time to the parties at least one week in advance.

7. The petition is disposed of in the above terms. A copy of this order be delivered forthwith to Justice S.B. Sinha.

OCTOBER 26, 2016
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S. MURALIDHAR, J.