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

+ ARB.P. 590/2015

METRO EXPORTERS P LTD Petitioner
Through Mr.Shravanth Paruchuri, Adv.

versus

TRUE POWER INTERNATIONAL LTD Respondent
Through Mr.Dinesh Kothari, Adv. with
Mr.B.S.Randhawa, Adv.

CORAM:
HON'BLE MR. JUSTICE MANMOHAN SINGH

ORDER
% **08.03.2016**

Learned counsel for the respondent states that he has taken the instructions from his client who has no objection if anyone among the proposed Arbitrators is appointed as sole Arbitrator to adjudicate the disputes between the parties.

The present petition has been filed by the petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996 for appointment of an appropriate person from Mumbai as the Sole Arbitrator to resolve the disputes and differences referred to arbitration to be conducted in Mumbai.

Brief facts are that the parties entered into an agreement dated 1st September, 2011, recording therein certain arrangements and understanding between them. As per the petitioner, contrary to the terms agreed between the parties, the respondent (i) delayed the supply of spare parts to cure the

defective inverters, Home UPS and online UPS, (ii) failed to arrange for an effective visit of a Technical representative, and (iii) failed to replace the incurable inverters, Home UPS and online UPS. In addition, respondent's technical engineer/representatives were unable to provide any solution for the defective inverters, Home UPS and online UPS system. Thus, the respondent has breached and failed to perform its obligations under the Agreement. As a result thereof, an amount of Rs.8,04,59,558/- has become due and payable by the Respondent to the Petitioner which includes *inter alia* compensation towards defective Inverters, Home UPS, and Online UPS, interest component calculated at 14.5% p.a. as on 30th September, 2015, compensation towards loss of business, reputation and goodwill as damages more particularly set out in the Particulars of Claim. The petitioner also issued notice dated 25th June, 2015 invoking arbitration. However, the respondent refused to accord consent on the names of the arbitrators suggested by the petitioner. Hence, the present petition has been filed by the petitioner.

Learned counsel for the petitioner states that as the venue for conducting the arbitration proceedings has already been agreed by the parties under the Agreement to be in Mumbai.

With the consent of the parties, Hon'ble Mr.Justice F.I.Rebello, (a retired Judge of the Bombay High Court, R/o 11-A, Examiner Press Building, First Floor, Dalal Street, Fort Mumbai, Maharashtra, Phone No.022-22826021) is appointed as sole Arbitrator to adjudicate the disputes between the parties as mentioned in the present petition. The parties are also allowed to file their respective claims and counter-claims before the Arbitrator. The Arbitrator shall ensure the compliance of the provisions of

Arbitration and Conciliation (Amendment) Act, 2015 before commencing the arbitration. The fee of the learned Arbitrator shall be paid by the parties as per schedule under the amended Act. The parties to appear before the Arbitrator on 30th March, 2016 for directions.

The petition is accordingly disposed of.

Copy of this order be given *dasti* to the learned counsel for the parties and a copy thereof be communicated to the learned sole Arbitrator.

MANMOHAN SINGH, J.

MARCH 08, 2016/ka