

\$~2

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

ARB.P. 176/2016 & IA No.12464/2016

GAIL (INDIA) LTD

..... Petitioner

Through : Mr Ajit Pudussery & Ms Saruti
Sarma Hazarika, Advs.

versus

HALLWORTHY SHIPPING LTD SA

..... Respondent

Through : Mr Arvind Kumar Gupta & Mr
Aditya Krsihna Murthi, Advs.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

05.10.2016

1. The petitioner has filed the present petition under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), praying that an Arbitrator be appointed on behalf of the respondent in terms of Section 11(6) of the Act.

2. The learned counsel for the respondent points out that the respondent company is not an Indian company and has its registered office at Edificio Torres, Universal Piso 12, Avenida Federico Boyd, Panama. He submits that since the respondent is not an Indian Company, the present dispute would be an international commercial arbitration and, therefore, this Court would not have any jurisdiction to entertain the present petition. He has also referred to the decision of this Court in M/s. HRD Corporation vs. GAIL (India)Ltd : 2011 (184) DLT 390.

3. The relationship between the parties is, undisputedly, a commercial one. In terms of section 2(1)(f)(ii) of the Act, an arbitration relating to disputes arising out of commercial relationships where at least one party is a body corporate, which is incorporated in any country other than India, would fall within the definition of the “international commercial arbitration”. Therefore in terms of section 11(12) of the Act, any application under section 11(5) or 11 (6) of the Act would have to be made to the Supreme Court of India.

4. The learned counsel appearing on behalf of the petitioner is also not in a position to dispute that the arbitration between the parties would be an international commercial arbitration. Therefore, this Court does not have the jurisdiction to entertain the present petition.

5. Accordingly, the petition along with the pending application is dismissed. Needless to mention that the petitioner is at liberty to apply in terms of Section 11 (12) of the Act to the Supreme Court of India.

VIBHU BAKHRU, J

OCTOBER 05, 2016

M