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

+ ARB.P. 92/2017

ASBESCO (INDIA) PVT. LTD.

..... Petitioner

Through: Ms Sumedha Dang, Mr Shiv Johar,
Advocates.

versus

INSTALACIONES INABEN SA & ORS.

..... Respondent

Through: Ms Pragya Ohri, Advocate

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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25.04.2017

1. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying that an arbitrator be appointed to adjudicate the disputes that have arisen between the parties in connection with the letter of award for supply of hardware fittings and accessories (Agreement) dated 12.03.2012. The said agreement includes an arbitration clause.

2. The petitioner asserts that certain disputes have arisen between the parties in relation to the said agreement and, accordingly, by a letter dated 12.08.2016, the petitioner invoked the arbitration clause and proposed the names of two persons to be appointed as arbitrators. It is further asserted that the petitioner had not received any response to the said letter. The learned counsel for the petitioner has further clarified that in terms of the Agreement a sole arbitrator has to be appointed.

3. The learned counsel for the respondent also states that she has no instructions in the matter and requests for time. The notice in the present petition was issued on 24.01.2017 and in view of the above, this Court cannot appreciate the request for further time.

4. In the circumstances, this Court is unable to accept that there is any dispute as to the existence of the arbitration agreement (clause). Accordingly, an arbitrator is required to be appointed.

5. In view of the above, Justice M.L. Mehta (Retd.) (Mobile No. 9910384620) is appointed as a sole arbitrator to adjudicate the disputes between the parties. This is subject to the arbitrator making the necessary disclosure under Section 12(1) of the Act and not being ineligible under Section 12(5) of the Act. The arbitrator shall fix the fees in consultation with the learned counsel for the parties. The parties are at liberty to approach the arbitrator for eliciting the necessary disclosure and for further proceedings.

6. The petition is disposed of.

7. Order *dasti* under signatures of the Court Master.

VIBHU BAKHRU, J

APRIL 25, 2017

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