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

+ **ARB.P. 145/2017**

ASHOKA BOOT FACTORY, AGRA

..... Petitioner

Through Mr B.S. Mathur, Advocate.

versus

UNION OF INDIA

..... Respondent

Through Mr Vijay Chand Joshi, Advocate with
Ms Meenakshi Pandey, Advocate with Mr S.S.
Sejwal Law Officer CRPF.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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17.03.2017

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 relation to the contract dated 19.04.2012.
2. Admittedly, the disputes relating to the contract are required to be resolved by arbitration in terms of clause 18 of the DGS&D Manual. The said clause is set out below:-

**"18.1 SETTLEMENT OF DISPUTES THROUGH
SOLE ARBITRATOR:**

18.1.1: Clause 24: of the General Conditions of Contract in form DGS&D-68 (Revised) provides that in the event of any question, dispute or difference arising under the conditions of or in connection with the DGS&D

contract (except as to matters the decision of which is epically provided for) the same shall be referred to the sole arbitration of an Officer in the Ministry of Law appointed to be the arbitrator by the Director General of Supplies & Disposals and that the award of the Arbitrator shall be final and binding on the parties to the contract. Further, the arbitration proceedings would be subject to the provisions of the Arbitration and Conciliation Act 1996 and the rules thereunder."

3. In view of the disputes that have arisen between the parties, the petitioner sent a legal notice dated 28.03.2016 making certain allegations and raising disputes. The respondent responded to the said notice by its letter dated 09.06.2016 controverting the allegations made in the said notice.
4. The petitioner sent another letter dated 10.07.2016 invoking the arbitration clause. Admittedly, the arbitrator has not been appointed as yet.
5. The learned counsel appearing for the respondent does not dispute the existence of the arbitration agreement (arbitration clause). He, however, submits that there is no dispute between the parties. The controversy between the parties relates to liquidated damages that had been imposed by the respondent on 18.07.2013. He submits that thereafter the petitioner had sought certain clarifications regarding the quantum of liquidated damages, which were provided. The respondent did not receive any further communications regarding the same and thus there were no pending disputes between the parties. He further submits that the petitioner has suppressed the relevant correspondence, which would indicate that no pending issues survive.
6. Be that as it may, since it is not disputed that an arbitration agreement exists between the parties and the petitioner has invoked the arbitration

clause, an arbitrator is required to be appointed.

7. Accordingly, Mr Sanjeev Dubey, Advocate (Mobile No: +91 9810062521) is appointed as an arbitrator to adjudicate the disputes between the parties. This is subject to the arbitrator making the necessary disclosure under Section 12 of the Act and not being ineligible under Section 12(5) of the Act. The arbitrator shall fix his 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.

8. The petition is disposed of.

MARCH 17, 2017

pkv

VIBHU BAKHRU, J