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

+ **ARB.P. 193/2017**

M/S TNT ENTERPRISES Petitioner

Through: Mr Alok Shankar, Advocate.

Versus

M/S LANCO SOLAR ENERGY PVT LTD Respondent

Through: Mr Vineet Tayal, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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27.04.2017

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 relation to the Work Orders dated 14.05.2013, 23.09.2013, 03.10.2013 and 23.12.2013. It is stated that all the Work Orders have a similarly worded arbitration clause, which is set out below:-

“Arbitration shall be in accordance with Arbitration and Conciliation Act, 1996. Courts in Delhi shall have exclusive jurisdiction in all matters arising under this order.”

2. In view of the disputes that have arisen between the parties, the petitioner invoked the arbitration clause by a notice dated 03.10.2016. However, the parties could not mutually agree on the appointment of an arbitrator.

3. At the outset, the learned counsel for the respondent states that he has been unable to file his vakalatnama but will do so within a period of one week from today.

4. The learned counsel for the respondents does not dispute the existence of the arbitration clause. He has, however, raised an objection that the present petition would not be maintainable since the petitioner is a sole proprietorship concern of Shri T. Purnachandra Rao and a petition cannot be instituted other than in the name of the sole proprietor. The learned counsel for the respondent further states that the petition is also silent as to the name of the sole proprietor and his name is indicated only in the notice dated 03.10.2016.

5. Since it is apparent that disputes have arisen between the parties and the Work Orders include an arbitration clause. It is necessary that an arbitrator be appointed to adjudicate the disputes in connection with all the four Work Orders. With the consent of the parties, it is directed that an arbitrator be appointed under the Rules of Delhi International Arbitration Centre (DIAC). The parties shall appear before the Co-ordinator, DIAC on 16.05.2017 at 11:00 AM and the arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules.

6. There is much merit in the respondent's contention that the petition of a sole proprietorship concern has to be instituted in the name of the sole proprietor. Accordingly, the petitioner shall amend the memo of parties to correctly reflect the name of the sole proprietor. The aforesaid order directing appointment of the arbitrator is subject to the amended memo of

parties being filed within a period of one week from today. It is clarified that if the petitioner fails to file the amended memo of parties, no further steps pursuant to this order are required to be taken by the DIAC.

7. The petition is disposed of.

VIBHU BAKHRU, J

APRIL 27, 2017

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