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

+ **ARB.P. 342/2016**

SCG CONTRACTS INDIAPVT LTD

..... Petitioner

Through Mr Atul Sharma, Advocate.

versus

ENGINEERS INDIA LIMITED

..... Respondent

Through Ms Navin Kumar, Advocate for D1.

Ms Rajeshwari H, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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31.05.2017

IA No. 6970/2017

1. This is an application filed on behalf of Engineers India Limited (hereafter 'EIL') seeking a clarification of the order dated 20.03.2017 that it would be reimbursed all costs incurred by it in connection with the arbitral proceeding relating to claims preferred by the petitioner.

2. The order passed on 20.03.2017 is unambiguous. EIL had agreed to join the arbitral proceedings as a party in view of its obligation under clause 16.2 of its agreement with NDMC to defend all litigation that may be instituted in respect of the contract entered into with the petitioner. Clause 16.2 of the said agreement is relevant and is set out below:

“16.2 In the event of any dispute between EIL (On behalf of the NDMC) and the contractor, all litigation expenditure including but not limited to cost of EIL efforts shall be reimbursed by the NDMC provided that such expenditure

shall be supported with certified time sheets and man-hour rates prevalent at that time. However, in the event of any third party litigation other than those engaged by EIL, NDMC shall be solely responsible for handling the same.”

3. It is apparent from the above that all litigation expenses would have to be borne by the NDMC. This court had in the order dated 20.03.2016 referred to clause 16 of the agreement between EIL and NDMC(although sub clause 16.2 was not quoted). The order dated 20.03.2017 had also expressly clarified that it was passed with the consent of the parties while noting the statement of the learned counsel for EIL; he had expressly stated that EIL had no objection to participate in the arbitration proceedings, *albeit*, with clear understanding that no award would be made against EIL and EIL would be reimbursed all costs incurred for contesting the dispute.

4. In view of the above, no further clarifications are required. The application is disposed of.

VIBHU BAKHRU, J

MAY 31, 2017

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