

\$~2

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

+ **ARB.P. 366/2016**

HARDIP SINGH WIRK

..... Petitioner

Through: Mr Vivek Malik and Mr Mukul
Thakur, Advocates.

versus

AWB INFRASTRUCTURTE LIMITED

..... Respondent

Through: Mr Shashank Deo, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

%

12.01.2017

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 Memorandum of Understanding dated 28.10.2013.

2. The said MoU contains an arbitration clause, which is set out below:-

“16. That all disputes or differences arising between the Parties under or in relation to this Memorandum of Understanding, shall be resolved by reference to Arbitration in accordance with the Arbitration and Conciliation Act, 1996. The venue of arbitration shall be New Delhi only.

3. The learned counsel appearing for the respondent does not dispute the existence of the MoU or the arbitration clause. He submits that the

petitioner had already filed a petition for winding up of the company and the parties were referred to the Delhi High Court Mediation and Conciliation Centre, (DHCMCC) for an amicable resolution of their disputes. The parties state that the said matter is now listed before the DHCMCC on 17.01.2017.

4. The petitioner issued a notice for invocation of the arbitration on 02.04.2016. However, the parties have been unable to concur on appointment of the Arbitrator. Accordingly, an Arbitrator is required to be appointed to adjudicate the disputes between the parties. 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 18.04.2017. The arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules.

5. In the event, the parties are able to resolve the disputes amicably prior to 18.04.2017 they shall communicate the same to the Co-ordinator, DIAC and no further steps would be required to be taken by him. However, if the parties are unable to resolve the disputes the same shall be decided by arbitration as directed.

6. The petition is disposed of.

VIBHU BAKHRU, J

JANUARY 12, 2017
MK