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

+ **ARB.P. 650/2016**

GATI-KINTETSU EXPRESS PVT. LTD. Petitioner

Through Mr Anant Bhushan, Advocate.

versus

ARISE INDIA LTD. Respondent

Through Mr R.K. Ranjan, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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10.01.2017

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 relation to the agreement dated 10.05.2014. the said agreement includes an arbitration clause which is set out below:-

“18.0

Any dispute, difference, controversy or claim under this Contract or pertaining to any transaction thereof shall be resolved by mutual negotiations within 15 (fifteen) days from the date of receipt of notification by either party. However, any such unresolved dispute, difference, controversy or claim shall be referred to a Sole Arbitrator to be appointed by the provisions of Arbitration & Conciliation Act, 1996 or any amendment thereof shall be applicable for such proceedings. The venue of such arbitration shall be at Delhi in the state of Delhi, India. The award of the Arbitrator shall be final and binding on the parties.”

2. The notice of this petition was issued on 24.10.2016 and the matter was listed on 13.11.2016. On that date learned counsel for the respondent sought time to take instructions and/or file the reply. Accordingly, two weeks time was granted to the respondent to file its reply. However, no reply has been filed as yet.
3. Learned counsel for the respondent is unable to dispute the existence of the arbitration clause.
4. In view of the disputes that have arisen, the petitioner had invoked the arbitration clause by letter dated 14.03.2013, however, the parties have been unable to concur on appointment of an arbitrator. Therefore an arbitrator is required to be appointed to adjudicate their disputes.
5. With the consent of the parties, it is directed that an Arbitrator be appointed under the Rules of the Delhi International Arbitration Centre (DIAC). The representatives of the parties shall appear before the Co-ordinator, DIAC on 03.02.2017 at 11:00 AM. The arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules.
6. The petition is disposed of.

VIBHU BAKHRU, J

JANUARY 10, 2017

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