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

% Judgment delivered on: 25.09.2017

+ ARB.P. 552/2017

MANGLAM EXPRESS CARGO PVT. LTD..... Petitioner

Through

versus

UNION OF INDIA & ORS.

..... Respondents

Through

Advocates who appeared in this case:

For the Petitioner : Mr. Chetan Wahi, Advocate.

Respondents : Mr. Hashmat Nabi with Mr. Abhinav
Thareja, Advocates with Mr. Digvijay
Malik, OS, Legal, Railways.

**CORAM:-
HON'BLE MR JUSTICE SANJEEV SACHDEVA**

**JUDGMENT
25.09.2017**

SANJEEV SACHDEVA, J. (ORAL)

1. The petitioner, by the present petition under Section 11 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as the Act) seeks appointment of a Sole Arbitrator.
2. The petitioner entered into a parcel leasing agreement with the respondents for a period of three years on 25.03.2010.
3. Disputes arose between the parties during the execution of the said contract leading to the respondents issuing a show cause notice to

the petitioner for cancellation of the registration, cancellation of all the existing contracts as well as for blacklisting.

4. By order dated 01.07.2016, the respondents cancelled the petitioner's registration, terminated all the existing contracts and forfeited the registration fee and security deposit and blacklisted the petitioner.

5. The petitioner impugned the said order by filing a writ petition being WP(C) 6591/2016. The writ petition was disposed of by order dated 29.07.2016 directing the respondents to treat the petition as a representation and decide the petitioner's representation.

6. By order dated 09.12.2016, the representation of the petitioner was rejected.

7. The petitioner is aggrieved by order of the respondents in cancelling the petitioner's registration, terminating all existing contracts, forfeiting the registration fee and security deposit as also the consequential blacklisting of the petitioner.

8. The petitioner invoked the arbitration by letter dated 14.06.2017 (posted on 07.07.2017).

9. The arbitration clause between the parties reads as under:-

“26.0 In the event of any difference of opinion or dispute between the Railway Administration and the Leaseholder as to the respective rights and obligations of the parties

hereunder of as the true intent and meaning of these presents or any articles of conditions thereof. Such difference of opinion shall be referred to the sole arbitrator or any officer appointed by the General Manager Northern Railway, Baroda House (name of Head Quarters) for the time being whose decision shall be final, conclusive and binding on the parties, the intention of the parties being that every matter in respect of this agreement must be decided by him as sole arbitrator and not taken to a Civil Court. All disputes are subject to the territorial jurisdiction of Court located in Delhi only.

10. As per the petitioner, the respondent was called upon by Invocation Letter dated 14.06.2017 to appoint an arbitrator in terms of Clause 26. However, the respondents failed to appoint an arbitrator.

11. It is contended that as the respondent failed to appoint an arbitrator till the petitioner approached this Court by filing the present petition under Section 11, the right of the Respondent to appoint an arbitrator is extinguished. Reliance is placed on the judgment of the Supreme Court in **DATAR SWITCHGEARS LTD. VS. TATA FINANCE LTD.:** 2000 (8) SCC 151.

12. Notice was issued on the petition. The respondents have not opposed the petition for appointment of an arbitrator. Accordingly, the arbitrator is required to be appointed to adjudicate the disputes between the parties.

13. It is, accordingly, directed that an Arbitrator be appointed by Delhi International Arbitration Centre in accordance with its Rules

and the proceedings be conducted under the aegis of Delhi International Arbitration Centre.

14. The parties shall appear before the Coordinator, Delhi International Arbitration Centre on 13.10.2017 at 11 am.

15. The petition is accordingly disposed of.

16. *Dasti* under signatures of Court Master.

SEPTEMBER 25, 2017
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SANJEEV SACHDEVA, J

