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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 582/2017**
VALUEHUNT ADVISORS LLP Petitioner
Through: Mr.Dhruv Banerji, Adv.

versus

MANIKARAN POWER LIMITED Respondent
Through: Mr.Sanjeet Trivedi, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
% **04.12.2017**

This petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the Act) has been filed by the petitioner seeking appointment of an Arbitrator for adjudication of the disputes that have arisen between the parties in relation to the Mandate dated 22nd March, 2016 executed between the parties. Clause 6(p) of the same provides for dispute resolution through arbitration. The same is quoted hereinbelow:-

p) All disputes or differences between the parties arising out of or in connection with execution of the assignment shall be attempted to be settled through mutual negotiation. In the event of such differences or disputes are not settled through mutual negotiations. In the event of such differences or disputes are not settled through mutual negotiations, the differences/disputes shall be referred to arbitration. The arbitration shall be conducted at Delhi in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and any statutory modification thereof. Notwithstanding the existence of any disputes referred to Arbitration, the parties

shall continue to perform their respective obligations under this Proposal.”

The petitioner invoked the arbitration clause through its legal notice dated 26th May, 2017, however, the respondent in its reply dated 3rd June, 2017 chose not to make any submission in this regard, claiming that there is no dispute between the parties which would require adjudication through arbitration.

Upon issuance of notice, the respondent has filed its reply, however, the same is not on record. I have perused copy of the same on a copy thereof being supplied by the counsel for the respondent.

In the reply it is not denied that an arbitration agreement exists between the parties, however, it is again submitted that as there was a failure on behalf of the petitioner to perform the obligation under the agreement within the stipulated period, it is not entitled to seek any relief under the agreement and equally there is no dispute between the parties that can be referred to arbitration.

In my opinion, the fact whether the petitioner is entitled to maintain its claim under Mandate/agreement or not is itself an issue to be decided by the arbitrator. In terms of Section 11(6)(A) of the Act, this Court is only to consider the fact of existence of an arbitration agreement between the parties. Admittedly, there is such an agreement in existence.

I accordingly, appoint **Ms.Sukhbeer Kour Bajwa**, Advocate, 89, Lawyers Chamber, Supreme Court Compound, New Delhi-

110001, Mobile-9818040158, as the Sole Arbitrator to adjudicate the disputes that have arisen between the parties in relation to the Mandate dated 22nd March, 2016. The Sole Arbitrator shall make a disclosure in terms of Section 12 before proceeding with the arbitration. All claims, counter claims and submission of respective parties shall remain open in such arbitration proceedings. The petition is allowed in the above terms, with no order as to costs.

The parties are directed to appear before the Arbitrator on 18th December, 2017 at 5.00 PM at the address given above.

Dasti.

NAVIN CHAWLA, J

DECEMBER 04, 2017
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