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IN THE HIGH COURT OF DELHI AT NEW DELHI

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CS(OS) 431/2013

M/S KARNATAKA AVIATION SUPPORT SERVICES PVT LTD

..... Plaintiff

Through Mr.R.Sudhinder with
Mr.R.Gopalakrishnan and Ms.Prerana
Amitabh, Advocates.

versus

AIRPORT AUTHORITY OF INDIA BANGALORE AND ANR

..... Defendants

Through Mr.Anil Kathuria, Standing Counsel
(Tax) with MrV.K.Nagpal, Advocate.

CORAM:

HON'BLE MR. JUSTICE MANMOHAN

ORDER

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25.07.2018

The issue that arises in the present suit is whether service tax is payable on license fee paid by the plaintiff to defendant for managing a car site at the Bangalore airport.

At the outset, learned counsel for the defendant-Airport Authority of India submits that in view of the Dispute Resolution Mechanism in Clause 30 of the General Terms and Conditions of the contract, the present matter needs to be referred to arbitration. The said Clause 30 is reproduced hereinbelow:-

“30. All disputes and differences arising out of or in any way touching or concerning this Agreement (except those the decision whereof is otherwise herein before expressly provided for or to which the Public Premises [Eviction or Unauthorised Occupants] Act and the rules framed thereunder which are

now enforce or which may hereafter come into force are applicable), shall be referred to the sole arbitration of a person to be appointed by the Chairman/Member of the Authority. The award of the arbitrator so appointed shall be final and binding on the parties. The Arbitration Act, 1996, shall be applicable.”

Keeping in view the width and amplitude of the Dispute Resolution Mechanism, the dispute between the parties is referred to the sole arbitration of a person to be appointed by the Chairman/Member of the defendant/Authority.

However, keeping in view the peculiar legal issue that arises in the present case, the Chairman of the defendant/Authority is directed to appoint a retired Judge of a High Court as an Arbitrator. The Arbitrator is directed to be appointed within a period of six weeks from today.

It is clarified that all issues are left open.

Accordingly, the present suit stands disposed of.

MANMOHAN, J

JULY 25, 2018

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