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

+ **ARB.P. 104/2018**

BLUE STAR LIMITED & ANR.

..... Petitioners

Through Mr Yashvardhan, Mr Smita Kant and
Ms Nikita Mishra, Advocates.

versus

PATALGANGA MINERALS PRIVATE
LIMITED

..... Respondent

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **29.05.2018**

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 four separate agreements – agreements dated 08.02.2013, 25.07.2013, 18.12.2014 and 18.12.2014 – entered into between the parties. All the aforesaid agreements include an arbitration clause, which is identically worded and is set out below:-

“(21) All disputes between the parties shall be referred to arbitration by a sole arbitrator to be appointed mutually by the parties hereto. The arbitration shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996 including any statutory amendment or re-enactments thereof. The venue of arbitration proceedings shall be Delhi.”

2. In view of the disputes that have arisen between the parties, the petitioner issued a consolidated notice dated 20.10.2017 invoking the arbitration clause in respect of each of the aforesaid agreements. The respondent responded on 18.11.2017, *inter alia*, denying the contents of the letter dated 20.10.2017 invoking the arbitration.

3. Notice of the present petition was issued on 07.02.2018 and the matter was listed on 09.05.2018. On that date, the counsel appearing for the respondent sought time to file a reply within a period of one week and a final opportunity was granted to the respondent to file a reply within a period of one week from that date. However, no reply has been filed despite sufficient opportunity.

4. The learned counsel appearing for the respondent has sought to oppose the present petition on two grounds. First, that the disputes between the parties are tripartite disputes and RSA is a necessary and appropriate party; and second, that the arbitration agreement is invalid, as it does not specify the disputes that can be referred to arbitration.

5. Insofar as the first contention is concerned, it is seen that the agreements in question were entered into between the parties and, therefore, the contention that the parties cannot be referred to arbitration, is unpersuasive. The contention, that the arbitration agreement is vague and does not provide which kind of disputes are to be referred to arbitration, is also bereft of any merit. The plain language of the arbitration clause makes it explicitly clear that “*all disputes between the parties shall be referred to arbitration*”. Plainly, the reference to all disputes is to the disputes that are related or connected with the agreements in question.

6. There is no dispute as to the existence of the arbitration agreement

and it is also not disputed the said arbitration agreement(s) had been invoked by the petitioner. Therefore, an arbitrator is required to be appointed to adjudicate the disputes between the parties.

7. Accordingly, Mr Babu Lal, Retired Additional District Judge, Delhi (Phone no. 9910384643) is appointed as the sole arbitrator to adjudicate the disputes between the parties arising between the parties in relation to the the four agreements as referred to above. This is subject to the arbitrator making the necessary disclosure under Section 12 of the Act and not being ineligible under section 12(5) of the Act. The arbitrator shall fix the arbitral fees in consultation with the learned counsel for the parties and having regard to Schedule IV of the Act.

8. It is clarified that since there are four separate agreements each containing an arbitration clause, it will be necessary for the arbitrator to conduct four separate arbitral proceedings which would culminate into four separate awards. However, if the issues are common, it will be open for the parties to club the said proceedings.

9. The parties are at liberty to approach the arbitrator for further proceedings.

10. The petition is disposed of.

VIBHU BAKHRU, J

MAY 29, 2018

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