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

+ **ARB.P. 171/2018**

MUKESH & ASSOCIATES

..... Petitioner

Through: Mr S. Santanam Swaminandhan, Ms
Nishtha Khurana and Mr Varun
Pandey, Advocates.

versus

UNION OF INDIA

..... Respondent

Through: Mr Vinod Diwakar, CGSC with Mr
Sanjay Pal, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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06.03.2018

I.A. 3147/2018

1. Exemption is allowed, subject to all just exceptions.
2. The application stands disposed of.

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3. 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 "Contract for Consultant's Services" dated 17.09.2015 (hereafter 'the Agreement').
4. The Agreement contains an arbitration clause, which is set out below:-

"8. SETTLEMENT OF DISPUTES

- 8.1 Amicable Settlement: Performance of the contract is governed by the terms & conditions of the contract, in case of dispute arises between the parties regarding any matter under the contract, either Party of the contract may send a written Notice of Dispute to the other party. The Party receiving the Notice of Dispute will consider the Notice and respond to it in writing within 30 days after receipt. If that party fails to respond within 30 days, or the dispute cannot be amicably settled within 60 days following the response of that party, clause GC 8.2 shall become applicable.
- 8.2 Arbitration: In the case of dispute arising upon or in relation to or in connection with the contract between the Employer and the Consultant, which has not been settled amicably, any party can refer the dispute for Arbitration under (Indian) Arbitration and Conciliation Act, 1996. Such disputes shall be referred to an Arbitral Tribunal as prescribed by Ministry of Law, Government of India. The Arbitration and Conciliation Act, 1996 and any statutory modification or re-enactment thereof, shall apply to these arbitration proceedings.
- 8.3 Arbitration proceedings shall be held in India in New Delhi in India, as indicated SC and the language of the arbitration proceedings and that of all documents and communications between the parties shall be English.
- 8.4 Dispute, if any, shall be subjected to jurisdiction of court in New Delhi only.”

5. The petitioner claims that certain disputes have arisen between the parties and accordingly, the petitioner served a notice dated 11.08.2017 seeking an amicable resolution of the said disputes. The respondent responded to the same by a letter dated 23.08.2017 forwarding a report as to the work done. This was followed by another letter dated 04.09.2017, whereby the respondent has declined to entertain the claims made by the

petitioner.

6. In view of the above, the petitioner served a notice dated 06.11.2017 invoking the arbitration clause. The petitioner states that it has received no response to the aforesaid notice. This has led the petitioner to file the present petition.

7. The existence of the arbitration clause is not disputed. In this view, the present petition is liable to be allowed and the arbitrator is required to be appointed.

8. Accordingly, Mr. Justice V.K. Shali, Retired. Judge, Delhi High Court (Mobile No. 9717495000) is appointed as the Sole Arbitrator to adjudicate the disputes that have arisen between the parties. 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.

9. The Arbitrator shall fix his fees in consultation with the learned counsel for the parties.

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

11. The petition is disposed of.

VIBHU BAKHRU, J

MARCH 06, 2018
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