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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 461/2018**

LOTUS ENTERPRISES Petitioner
Through Mr.Adil Alavi, Adv.

versus

DIVISIONAL RAILWAY MANAGER NORTHERN RAILWAY Respondent
Through Mr.Jagjit Singh, Sr. Standing counsel
with Mr.Preet Singh and Mr.Vipin
Choudhary, Adv.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
% **16.08.2018**

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 work to be executed by the Petitioner: CTR (P) 3.15 Km on DN Line GZB-MB section (from 136.40 to 139.55) and TRR (P) 6.46 Km on DN Line DLI-GZB Section (From 6.44Km to 12.90) under ADEN/GZB. The said work was awarded on 25.11.2013, vide Tender Notice No. 128-W/260/ Tender Notice/03/13-14/W-II/11-12/GZB, vide Agreement No. 17/13-14 of Senior DEN-II/New Delhi.

The said Agreement between the parties contains an Arbitration Agreement in form of Clause 64 of the General Conditions of the Contract (GCC). The disputes having arisen between the parties, the petitioner

invoked the Arbitration Agreement vide its notice dated 31.03.2017. The respondent vide its letter dated 03.05.2017, while advising the petitioner to make its request in the prescribed form, called upon the petitioner to waive its rights under Section 12(5) of the Act.

The petitioner vide its letter dated 12.06.2017 declined to give its consent to waive its rights under Section 12(5) of the Act and called upon the respondent to appoint an Independent Arbitrator.

Having failed to receive any response, the petitioner sent a reminder on 21.11.2017 and thereafter, filed the present petition.

The respondent has not filed any reply to the petition.

As there is no dispute on the existence of the Arbitration Agreement as also the due invocation thereof by the petitioner, I see no impediment in appointing a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the abovementioned Agreement.

Keeping in view the nature of claim of the petitioner, the parties are referred to the Delhi International Arbitration Centre (DIAC), which shall appoint a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the abovementioned Agreement. The Arbitration and the fee shall be governed by the DIAC Rules.

Parties shall appear before the DIAC on 10th September, 2018 at 2.00 p.m.

The petition is disposed of in the above terms, with no order as to cost.

Dasti.

NAVIN CHAWLA, J

AUGUST 16, 2018/Arya