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

+ **ARB.P. 605/2017**

NAVEEN CHAWLA & ANR. Petitioners

Through: Ms Astha Sharma, Advocate.

versus

TDI INFRASTRUCTURE LTD. Respondent

Through: Mr Anil Sapra, Senior Advocate with
Mr Jaideep Singh and Mr Sarthak
Katyal, Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **08.03.2018**

1. The petitioners have 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 are stated to have arisen between the concerned parties in connection with the Buyer's Agreement dated 21.01.2012 (hereafter 'the Agreement').
2. The Agreement contains an arbitration clause, which is set out below:-

“ARTICLE 17

ARBITRATION

1. All disputes, differences or disagreement arising out of, in connection with or in relation to this Agreement shall be mutually discussed and settled between the Parties.
2. All disputes, differences or disagreement arising out of, in connection with or in relation to this Agreement, which cannot be amicably settled, shall be finally decided by arbitration to be held in accordance with the

provisions of the Arbitration and Conciliation Act, 1996. Any arbitration as aforesaid shall be a domestic arbitration under the Applicable Law.

3. The venue of arbitration shall be New Delhi or such other place as may be mutually agreed between the Parties and the language of arbitration shall be English.
4. The arbitration shall take place before the sole arbitrator, appointed by the First Party. The award shall be rendered in English Language.”

3. The petitioners further claim that a notice dated 02.05.2017 invoking the arbitration clause was issued to the respondent; however, the petitioners did not receive any response to the same.

4. Mr Sapra, the learned Senior Counsel appearing on behalf of the respondent contested the claim that the notice dated 02.05.2017 invoking the arbitration clause had been sent to the respondent. He submitted that, in any case, the respondent had not received the same. Mr Sapra further contended that in terms of Article 17 of the Agreement, the parties are required to attempt to resolve their disputes amicably before proceeding for arbitration.

5. The petitioners have also annexed a postal receipt for the dispatch of the notice dated 02.05.2017 and in this view, this Court is inclined to accept that the notice invoking the arbitration clause was duly served on the respondent.

6. There is no dispute regarding the existence of an arbitration clause. The parties are also agreeable that in the event the disputes remain unresolved, the parties be referred to arbitration under the aegis of Delhi International Arbitration Centre (DIAC).

7. In view of the above, the parties are directed to appear before

Coordinator, DIAC on 01.05.2018. The Arbitrator shall be appointed under the Rules of DIAC. The arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules.

8. In the meanwhile, the parties are also referred to Delhi High Court Mediation and Conciliation Centre (DHCMCC) for attempting to resolve their disputes amicably. The parties shall appear before DHCMCC on 15.03.2018 at 03:30 p.m.

9. The parties shall endeavour to resolve their disputes amicably. If the disputes are resolved amicably, the same will be communicated to the Coordinator, DIAC and he is not required to take any further steps in furtherance of the arbitral proceedings. However, if the parties are unable to resolve their disputes by 27.04.2018, the parties shall appear before Coordinator, DIAC as directed.

10. It is clarified that all rights and contentions of the parties are kept open.

11. The petition is disposed of in the above terms.

VIBHU BAKHRU, J

MARCH 08, 2018
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