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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 612/2017

ALCON BUILDERS & ENGINEERS (P) LTD Petitioner

Through : Mr.Siddharth Sharma, Adv.

Versus

NORTHERN RAILWAYS

..... Respondent

Through : None

CORAM:

HON'BLE MR. JUSTICE YOGESH KHANNA

ORDER

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04.01.2018

In the year 2011 the respondent floated a tender for, inter alia, provision for design of circuits for metal to metal circuitry, including part supply of materials, installation, wiring, testing and commissioning for provision of indoor relay, interlocking equipments at Palwal, Asaoti, Piyala, Ballabgarh, Faridabad Town, Faridabad and in Cabin station in connection with provision of 4th line between Junction cabin TKD to Palwal section of Delhi division of Northern Railway. The petitioner was declared successful and was awarded the said works vide Letter of Acceptance dated 20.04.2011 issued by the respondent. The disputes and differences arose between the parties with respect to non-payment of Rs.1,42,51,398/- by the respondent. The outstanding amount was raised on the respondent by the petitioner by way of 16 Running Account Bills issued on various dates for Price Variation in terms of Clause 45 of the Contract read with the relevant clauses of General

Condition of Contract (which form part of the Contract). Accordingly on 21st May, 2015 the petitioner raised a demand on the respondent. On 9th November, 2015 the respondent, thereafter, being satisfied with the quality of the works done and execution of the said Contract were pleased to issue the Completion Certificate. On 11th October, 2015 the works as contemplated under the Contract were completed by the petitioner. Despite receipt of the Letter dated 21.05.2015 by the respondent, the Respondent willfully remain silent on the clearance of various bills. On 16th December, 2016 the petitioner was forced to issue a written request to the General Manager, Northern Railways to refer the aforementioned disputes to Arbitration vide Letter dated 16.12.2016 in terms of the procedure of Clause 40.1 of the Contract (Arbitration). On 14th June, 2017 the petitioner again issued a letter to the respondent for appointment of arbitrator in terms of letter dated 16.12.2016 to the respondent. Though on 26.8.2017 the respondent cleared the final bill under the Contract by making payment of Rs. 67,65,661/- to the petitioner, however, the said payment did not include the aforementioned claim under the head of price variation and since the respondent failed to act per clause 40.1 of the contract, hence this petition.

Even today none has appeared on behalf of the respondent despite on the last date the learned counsel for respondent sought time to seek instructions. Since the respondent has failed to act per clause 40.1 hence Justice(Dr.) Bharat Bhushan Parsoon (Retd.) (Mobile – 9999688558) is appointed as an arbitrator. His fee shall be fixed as per the fee schedule of Delhi High Court Arbitration Centre.

The petition stands disposed of.

YOGESH KHANNA, J

JANUARY 04, 2018

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