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

+ **ARB.P. 679/2017**

M/S HERITAGE CONSERVATORS Petitioner

Through: Mr Sanjay Bansal, Advocate.

versus

QUILA PRATAP HOTELS (P) LTD. Respondent

Through: Mr Ranvir Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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20.03.2018

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 the contract for restoration work of Main Palace (Quila Pratap Hospitality Project at Etawah (U.P.)). The respondent had issued a Notice Inviting Tenders (NIT) for the said works. The tender documents enclosed with the NIT also included the agreement to be executed. The said agreement includes an arbitration clause, which is set out below:-

“(8) All disputes arising out of or in any way connected with this agreement shall be deemed to have arisen in New Delhi and only the courts in New Delhi alone shall have exclusive jurisdiction to determine the same.

(9) Arbitration : In case the parties can not agree to the advise of Architect then Owner of Quila Pratap Hotels (P) Ltd. shall appoint a sole arbitrator within 30 days of receipt of request

forthwith the arbitration shall be governed by Arbitration and Reconciliation Act 1996.”

2. The petitioner submitted its tender pursuant to the NIT, which was accepted by the respondent by a communication (email) dated 22.02.2016.
3. The petitioner states that certain disputes have arisen between the parties in respect of the said works and, therefore, the petitioner was constrained to issue a notice dated 15.09.2017 invoking the arbitration clause. The petitioner claims that the said notice has not elicited any response from the respondent.
4. The learned counsel appearing for the respondent points out that the said agreement does not bear the signatures of the respondent. However, it is not disputed that the said agreement formed a part of the tender documents, which was floated. It is also not disputed that the petitioner had submitted the tender pursuant to the NIT, which was accepted. In this view, the existences of the arbitration agreement can be established from the communications between the parties and the requisite condition of the Section 7(4)(b) of the Act are duly satisfied.
5. In view of the above, this Court is of the view that the Arbitral Tribunal is required to be constituted. With the consent of the parties, it is directed that an arbitrator be appointed by the Delhi International Arbitration Centre (DIAC). The arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules.
6. The parties are directed to appear before the DIAC on 06.04.2018 at

11:00 AM.

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

VIBHU BAKHRU, J

MARCH 20, 2018
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