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

+ ARB.P. 884/2018

SHIV KUMAR DOHAREY Petitioner

Through: Mr. Vijay Kasana, Adv.

versus

GAIL (INDIA) LIMITED Respondent

Through: Ms. Purnima Maheshwari, Adv.

CORAM:

HON'BLE MR. JUSTICE J.R. MIDHA

ORDER

% **18.12.2018**

I.A. 17099/2018

1. Allowed subject to just exceptions.

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2. The petitioner is seeking appointment of an arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996.

3. The arbitration agreement between the parties is contained in clause 107.1 of the agreement which is reproduced in paragraph 7(x) of the petition. The petitioner invoked the arbitration vide notice dated 20th April, 2018.

4. Learned counsel for the respondent does not dispute the existence of the arbitration agreement. Learned counsel for the respondent, however, submits that the petitioner's claims are time barred.

5. Learned counsel for the petitioner submits that under Section 11 (6A) of the Arbitration and Conciliation Act, this Court has to confine to the examination of the existence of the arbitration agreement.

6. The petition is allowed and this case is referred to the appointment of

an arbitrator to Delhi High Court International Arbitration Centre. The Delhi High Court International Arbitration Centre shall appoint an arbitrator to adjudicate the claims and counter claims, if any of the parties. The objection of limitation of the respondent shall be considered and adjudicated by the learned arbitrator.

7. The arbitration shall be conducted under the aegis of the Delhi International Arbitration Centre (DIAC).

8. The learned arbitrator shall ensure the compliance of Section 12 of Arbitration and Conciliation Act, 1996 before commencing the arbitration.

9. Copy of this order be sent to Delhi International Arbitration Centre (DIAC).

10. Copy of this order be given *dasti* to counsels for the parties under signatures of the Court Master.

J.R. MIDHA, J.

DECEMBER 18, 2018

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