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

+ **ARB.P. 829/2017**

FINOLEX CABLES LTD

..... Petitioner

Through: Ms Amrita Narayan and Mr Akshay
Gupta, Advocates.

versus

BHARAT BROADBAND NETWORK LTD

..... Respondent

Through: Mr Nikhilesh Krishnan, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **05.03.2018**

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 concerned parties in relation to the Purchase Order dated 10.04.2015.
2. The purchase order specifically provides that the same would be governed by the General (Commercial) Conditions (GCC) of Contract (Section III of the tender document) as well as the Special (Commercial) Conditions of Contract (Section IVB of the tender document).
3. It is not disputed that the said conditions includes an arbitration clause.
4. In view of the disputes that are stated to have arisen between the concerned parties, the petitioner invoked the arbitration clause by a notice dated 10.08.2017.
5. The respondent responded to the letter of invocation by stating that

the claims raised by the petitioner do not lie. It is also the case of the respondent that the disputes raised by the petitioner fall within excepted matters and therefore, are not arbitrable.

6. At this stage, this Court is not called upon to examine the disputes between the parties. Since it is not disputed that an arbitration agreement (clause) exists between the parties and the petitioner has invoked the arbitration clause, the present petition is liable to be allowed and it is necessary to appoint a sole arbitrator to adjudicate the disputes that have arisen between the parties in relation to the Purchase Order dated 10.04.2015.

7. In view of the above, this Court appoints Mr. Justice R.C. Chopra, Retired. Judge, Delhi High Court (Mobile No. 9818097777), to act as a Sole Arbitrator to adjudicate the disputes between the parties. This is subject to the Arbitrator making the necessary disclosure under Section 12 of the Act and not being ineligible under section 12(5) of the Act.

8. The arbitration shall be conducted under the aegis of Delhi International Arbitration Centre (DIAC) and in accordance with its Rules. The parties shall approach the Co-ordinator, DIAC. It is clarified that all contentions of the parties regarding the merits as well as arbitrability of the disputes are left open.

9. The petition is disposed of.

VIBHU BAKHRU, J

MARCH 05, 2018
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