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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 557/2017

COUNCIL OF SCIENTIFIC & INDUSTRIAL RESEARCH

..... Petitioner

Through Ms. Poonam and Mr. Jayesh K.
Unnikirishnan, Advs. with Mr. Anil
Kumar, Scientist (Legal) CSIR.

versus

AVESTHA GENGRAINE TECHNOLOGY PVT. LTD.

..... Respondent

Through Mr. Joshua Samuel and Mr. Rajat
Agnihotri, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

ORDER

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27.02.2019

1. The prayer made in the petition is for substitution of the Arbitrator.
2. Learned counsel for the respondent says that though the reply was filed, it was filed beyond the time which had been given by the Joint Registrar (Judicial).
3. A perusal of the order dated 29.11.2018 shows that the respondent had failed to file a reply despite liberty being given in that behalf and, therefore, further opportunity was given, *albeit*, upon payment of costs of Rs.10,000/-.
4. Concededly, costs have not been deposited, though, I am told, that the reply has been filed.
5. Learned counsel for the respondent seeks waiver of costs. I.A. No.2155/2019 has been filed for this purpose.

6. Learned counsel for the parties inform me that on an earlier occasion this Court had appointed Hon'ble Mr. Justice Y.K. Sabharwal, former Judge, Supreme Court, as an Arbitrator in the matter.

7. I am further informed that Hon'ble Mr. Justice Sabharwal recused from the matter due to ill-health.

8. Learned counsel for the parties inform me that thereafter, Hon'ble Mr. Justice Markandeya Katju also a former Judge of the Supreme Court was appointed as an Arbitrator.

8.1 For this purpose, my attention has been drawn to the order dated 1.9.2015.

9. Learned counsel for the petitioner says that despite service she has received no response from the learned Arbitrator.

10. Mr. Samuel, who appears for the respondent, says that he has no difficulty in this Court to substituting Hon'ble Mr. Justice Katju by another Arbitrator.

11. In fact, both the counsel jointly request that another Arbitrator be appointed in view of the fact that the proceedings are getting delayed.

12. I am informed that the proceedings had reached the final argument stage before Hon'ble Mr. Justice Sabharwal.

13. In these circumstances, Hon'ble Mr. Justice A.P. Shah, former Chief Justice, Delhi High Court (Cell No:9910160007), is appointed as an Arbitrator in the matter in place of Hon'ble Mr. Justice Markandeya Katju.

14. The arbitration will be carried out under the aegis of the Delhi International Arbitration Centre (for short 'DIAC').

15. Consequently, the proceedings will be governed by the rules framed by the DIAC in that behalf. Before entering upon reference, the learned Arbitrator will file a declaration as required under Section 12 and other attendant provisions of the 1996 Act.

16. It is made clear that the proceedings will commence from the stage at which they are presently positioned.

17. Learned counsel for the petitioner says that she will hand over the record to the learned Arbitrator. The statement of the counsel is taken on record.

18. The petition is disposed of with the aforesaid terms.

19. In view of the above, I.A. 2155/2019 is allowed.

20. The costs imposed by the Joint Registrar vide order dated 29.11.2018 is waived.

21. The other interlocutory application i.e. I.A. 10047/2017, is closed.

22. The Registry will despatch a copy of this order to the Co-ordinator, DIAC and the learned Arbitrator.

RAJIV SHAKDHER, J

FEBRUARY 27, 2019

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