

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

**ARBITRATION APPLICATION Nos 98, 99, 100 and 103
of 2017**

COMMON ORDER :

All these Arbitration Applications under Section 11 of the Arbitration and Conciliation Act, 1996 (for brevity "the Act") are filed by the applicant seeking appointment of an Arbitrator for resolution of the disputes between the applicant and the respondent arose out of the terms and conditions of the Supply Agreement dated 23-11-2015, Erection and Commissioning Agreement dated 13-05-2015, Supply agreement dated 13-05-2015 and Civil Erection (Works) agreement, dated 23-11-2015 respectively.

The case of the applicant is that the respondent received various contract works from the Superintending Engineer, Transmission Corporation of Telangana Limited, OMC Circle, TS Transco, Nalgonda and Damodar Valley Corporation respectively for supply of certain equipment for various projects. The respondent has given a Sub-contract to the applicant and entered into different agreements stated supra. When the respondent failed to fulfill obligations as per the agreements, the applicant issued notices dated 08-07-2017 and 10-07-2017 respectively claiming about Rs.15.00 crores as well as invoking the arbitration clause. Though the said notices were received,

there was no reply from the respondent. As such, the present applications are filed.

After issuing the notices the respondent has appeared through his counsel, but no counter affidavit is filed though the matters are pending from 2017 onwards. Besides that, learned counsel for the respondent again seeks time, which is opposed by learned counsel for the applicant and the same is justified because the matters are pending since 2017 onwards.

It is to be seen that the Supply Agreement dated 23-11-2015, Erection and Commissioning Agreement dated 13-05-2015, Supply agreement dated 13-05-2015 and Civil Erection (Works) agreement, dated 23-11-2015 respectively provides for arbitration, the relevant portion of the same reads as under:

“ This supply Agreement and all related issues shall be construed in accordance with and governed by the laws of the Republic of India and in the event of any dispute, the courts in Hyderabad, Telangana, India shall have exclusive jurisdiction to settle and grant any temporary relief, interim relief, and any or all permanent rulings. Parties hereby represent and agree that any dispute shall first tries to be amicably settled, failing which the second step shall be arbitration under the Arbitration and Reconciliation Act, 1999, under which the Parties agree to three arbitrators, one by each Party and third by the two appointed arbitrators. The arbitrators appointed

shall be knowledgeable and educated persons. Approaching courts shall be a final step if the three appointed arbitrators fail to reach a settlement. Parties hereby also agree that even if they are registered as medium or small scale industry, they will not approach the said industry body facilitation council for any arbitration, but will only rely on the arbitration method outlined in this Clause.”

(Verbatim reproduced)

Learned counsel for the applicant asserts that there is an arbitration clause in the agreement and notice was also issued by the applicant by invoking the same in all the applications, but the same is not disputed by respondent either by giving reply to the notice dated 08-07-2017 and 10-07-2017 respectively or by way of filing counter affidavit in the Arbitration Applications.

In view of the existence of arbitration clause in the aforesaid agreements and the same is invoked by the application by issuing legal notice and there is no denial of the same by the respondent either by giving reply notice or by filing counter affidavit, these applications need to be allowed.

Accordingly, all these Arbitration Applications are allowed appointing Hon'ble Sri Justice B.P.Jeevan Reddy, Former Supreme Court Judge, as the sole Arbitrator for resolution of dispute(s) between the applicant and

respondent arose out of the Supply Agreement dated 23-11-2015, Erection and Commissioning Agreement dated 13-05-2015, Supply agreement dated 13-05-2015 and Civil Erection (Works) agreement, dated 23-11-2015 respectively in accordance with the provisions and mandate of the Act of 1996. The learned Arbitrator shall be entitled to fees as per the rates specified in the Fourth Schedule to the Act of 1996, inserted by Act 3 of 2016 with effect from 23-10-2015, which shall be borne by both parties in equal measure. No order as to costs.

As a sequel, miscellaneous applications pending, if any, shall stand closed.

A. RAJASHEKER REDDY, J

06-01-2020

Note:

Office to mark a copy to:

Sri Justice B.P.Jeevan Reddy,
Plot No.301, Road No.25, Jubilee Hills,
Hyderabad-33.

B/o.

Nvl

HON'BLE SRI JUSTICE A. RAJASHEKER REDDY

ARBITRATION APPLICATION No.84 of 2019



02-01-2020

Nvl

