

OD-59

ORDER SHEET

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE
AP/324/2020

SAURYAJYOTI RENEWABLES PVT. LTD.
Versus
L AND K ENTERPRISE

BEFORE:

The Hon'ble JUSTICE DEBANGSU BASAK

Date : 08th April, 2021.

Appearance :
Mr. Anirban Majumder, Adv.
Mr. Somnath De, Adv.
... for the petitioner.

The Court: In this application under Section 11(6) of the Arbitration and Conciliation Act, 1996, the petitioner seeks appointment of an Arbitrator.

None appears for the respondent despite service.

The parties entered into a contract. A purchase order was placed by the petitioner upon the respondent for supply of materials and for execution of a project. Such purchase order was placed on March 1, 2020. The purchase order contains an arbitration clause which is as follows:-

“L) Arbitration

- 1) All and any disputes or differences or claims whatsoever which shall at any time hereafter shall, without recourse to arbitration, at first instance, be settled amicably between the Parties. Should such dispute, differences or

claim remain unresolved within thirty(30) days of the date on which it was so referred to by one Party to the other, then the Parties may refer such dispute, difference or claim to be finally settled by Arbitration to be held in Kolkata in accordance with the provisions of the Arbitration and Conciliation Act, 1996(as amended).

If nothing to the contrary is heard within 48 hours from receipt of order it will be understood that the order is accepted as per our terms and conditions stated herein.

If the PO is cancelled after 48 hours Sauryajyoti Renewables is liable to charge penalty of 10% to the contractor, otherwise can take legal steps. Please return a copy duly signed with company stamp as a token of acceptance of this contract.”

Disputes and differences arose between the parties. The petitioner referred such disputes to arbitration by a letter dated July 8, 2020. The respondent replied thereto through their Advocates letter dated July 18, 2020. The respondent claimed in such reply that the respondent did not enter into any arbitration agreement. Prima facie, it appears that there is an arbitration agreement governing the contract between the parties. It is trite law that when the Court is in doubt as to whether there exists an

arbitration agreement or not, the Court should refer the disputes to arbitration including the issue of existence of the arbitration agreement.

In such circumstances, Mr. Anirban Das, Advocate High Court, Calcutta is appointed as the Arbitrator in terms of the arbitration agreement between the parties. All issues between the parties in relation to the contract including the issue of existence of the arbitration agreement are referred to the Arbitrator.

Learned Arbitrator is given liberty to fix his remuneration. The parties will bear the same in equal share. The parties will bear the costs and expenses of the arbitration in equal share.

AP/324/2020 is disposed of accordingly.

(DEBANGSU BASAK, J.)