

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

110+207

**CM-8427-CII-2021 in/and
ARB No.365 of 2021**

M/s Lubhaya Oil Carrier

... Applicant

Versus

The Indian Oil Corporation Ltd. and others

... Respondents

109+208

**CM-8419-CII-2021 in/and
ARB No.366 of 2021**

M/s J.J. Oil Carrier

... Applicant

Versus

The Indian Oil Corporation Ltd. and others

... Respondents

111+209

**CM-8474-CII-2021 in/and
ARB No.368 of 2021**

M/s Surjit Oil Carrier

... Applicant

Versus

The Indian Oil Corporation Ltd. and others

... Respondents

108+220

**CM-8418-CII-2021 in/and
ARB No.383 of 2021**

M/s Sahib Oil Carrier

... Applicant

Versus

The Indian Oil Corporation Ltd. and others

... Respondents

Decided on: 20.09.2021

CORAM : HON'BLE MR.JUSTICE G.S. SANDHAWALIA

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CM-8418-CII-2021 in/and ARB No.383 of 2021

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Present: Mr. Ramesh Sharma, Advocate for the applicant (s).

Mr. Ashish Kapoor, Advocate for the respondents.

G.S. Sandhawalia, J. (Oral)

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Applications for placing on record replication and for exemption from filing certified/typed copy of Annexure A-17, are allowed. The same are taken on record. Office to append the same at the appropriate place.

CMs stand disposed of.

Main cases

The present order shall dispose of four petitions i.e. ARB Nos.365, 366, 368 and 383 of 2021 as common issues are involved.

The present petitions have been filed for appointment of an independent person as a sole Arbitrator under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (for short 'the Act') for adjudicating the dispute between the parties.

The applicants are transporters, who had entered into a work order with the respondent-Corporation. In sum and substance the claim is that as per the work order executed inter se the parties, their bills of diesel had been processed by the Indian Oil Corporation by calculating the rates of Chandigarh and not the Jalandhar location from where they were

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transporting the goods. It is in such circumstances, they claim the invocation of the Arbitration, as per Clause 16 of the agreement inter se the parties.

Mr. Kapoor has submitted that they were being paid only transportation rates for the works carried out and the formula for working out escalation/de-escalation in transportation rates is on account of increase/decrease in retail selling price of HSD given in Schedule-A of the tender document. It is pointed out by referring to the said schedule which is appended as Annexure A-12 in the paper-book that the rates have to be seen as per ex-State capital cities (within municipal limits) of the supply point concerned inclusive of taxes.

It is not disputed that the diesel rates in Chandigarh and Punjab vary with rates in the State of Punjab being on the higher side and therefore, it would be appropriate if the matter as such be gone into by the Arbitrator that on what basis the payment has been made by the Corporation. Resultantly, this Court is of the opinion the dispute is liable to be resolved by a common Arbitrator since common issues arise in all four petitions.

Accordingly, for the reasons given above Justice Paramjeet Singh Dhaliwal (retd.) resident of #2254, Sector-35C, Chandigarh, Telephone No.0172-2665020, Mobile No.7837049204 is appointed as an Arbitrator. He shall file the requisite declaration under Section 12 of the Act read with the fifth and sixth schedule in order to disclose his independence and impartiality to settle the dispute between the parties.

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The Arbitrator is also requested to complete the proceedings within the time specified under Section 29A of the Act. The fees of the Arbitrator shall be paid in accordance with the provisions of the Act and the Rules.

Copy of the order be forwarded to the said Arbitrator at the given address and to the ounsel for the parties also. After seeking the consent of the Arbitrator, the parties are directed to appear before the Arbitrator on 11.10.2021 at 10.00 a.m.

The petitions stand disposed of, in the abovesaid terms.

September 20, 2021
Naveen

(G.S. SANDHAWALIA)
JUDGE

Whether speaking/reasoned:

Yes/No

Whether Reportable:

Yes/No