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

+ **ARB.P. 428/2021**

TO THE NEW PRIVATE LIMITED Petitioner
Through: **Mr. Aditya Dewan, Adv.**

versus

GOLDEN TOWER INFRA TECH LTD Respondent
Through: **Mr. Joby P. Varghese and**
Mr. Nishant Rai, Adv.

+ **ARB.P. 429/2021**

M/s. TO THE NEW PRIVATE LIMITED Petitioner
Through: **Mr. Aditya Dewan, Adv.**

versus

GOLDEN TOWER INFRA TECH LTD Respondent
Through: **Mr. Joby P. Varghese and**
Mr. Nishant Rai, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (O R A L)

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10.09.2021

(Video-Conferencing)

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1. This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996, seeking reference of the disputes, between the parties, to arbitration.

2. Mr. Varghese, learned Counsel for the respondent submits that the only misgiving, of his client is regarding the nature of the actual dispute being referred to arbitration, specifically the quantum of the claim.

3. Mr. Dewan, learned Counsel for the petitioner, submits that his client seeks reference, to arbitration, only of his entitlement to the amount of waiver of ₹ 57,85,750/-, indicated in Annexure A to the legal notice dated 3rd August, 2020 by the petitioner to the respondent.

4. Mr. Varghese has no objection to the reference of the issue of entitlement of the petitioner, to waiver of the aforesaid amount of ₹ 57,85,750/-, to arbitration.

5. In view thereof, the issue of the entitlement of the petitioner to waiver of ₹ 57,85,750/-, as sought in Annexure A of the legal notice dated 3rd August, 2020, addressed by the petitioner to the respondent, stands referred to arbitration. The parties are referred to the Delhi International Arbitration Centre (DIAC), which would proceed to appoint a suitable arbitrator to arbitrate on the disputes.

6. The arbitration would proceed under the aegis of the DIAC and in accordance with its rules and regulations.

7. The arbitrator would be entitled to fees in accordance with the schedule of fees maintained by the DIAC.

8. It is made clear that this Court has expressed no opinion on the merits of the controversy between the parties and all questions of fact in law remain open to agitation in the arbitral proceedings.

9. With the aforesaid observations, the petition stands disposed of.

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10. This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996, seeking reference, of the disputes, between the parties, to arbitration.

11. Mr. Varghese, learned Counsel for the respondent submits that the only misgiving, of his client is regarding the nature of the actual dispute being referred to arbitration, specifically the quantum of the claim.

12. Mr. Dewan, learned Counsel for the petitioner, allays this apprehension by submitting that his client seeks reference, to arbitration, only of his entitlement to the amount of waiver of ₹ 8,90,915/-, indicated in Annexure A to the legal notice dated 3rd August, 2020 from the petitioner to the respondent.

13. Mr. Varghese has no objection to the reference of the issue of entitlement of the petitioner, to waiver of the aforesaid amount of ₹ 8,90,915/- to arbitration by an arbitral tribunal.

14. In view thereof, the issue of the entitlement of the petitioner to waiver of ₹ 8,90,915/-, as sought in Annexure A of the legal notice dated 3rd August, 2020, addressed by the petitioner to the respondent,

stands referred to arbitration. The parties are referred to the Delhi International Arbitration Centre (DIAC), which would proceed to appoint a suitable arbitrator to arbitrate on the disputes.

15. Given the amounts involved, the DIAC may consider the appointment of a single arbitrator to arbitrate in both the disputes.

16. The arbitration would proceed under the aegis of the DIAC and in accordance with its rules and regulations.

17. The arbitrator would be entitled to fees in accordance with the schedule of fees maintained by the DIAC.

18. It is made clear that this Court has expressed no opinion on the merits of the controversy between the parties and all questions of fact in law remain open to agitation in the arbitral proceedings.

19. With the aforesaid observations, the petition stands disposed of.

C. HARI SHANKAR, J

SEPTEMBER 10, 2021/kr