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

+ **O.M.P.(I) (COMM.) 263/2021**

GE T AND D INDIA LTD.

..... Petitioner

Through Mr. Gauhar Mirza, Mr. Ameer
Rana and Mr. Manavendra Gupta, Advs.

versus

SHIPRA INFRATECH PVT. LTD.

..... Respondent

Through: Mr. Rishi K. Awasthi and Mr.
Sumeet Raj, Advs.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

ORDER (ORAL)

04.10.2021

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1. This petition under Section 9 of the Arbitration and Conciliation Act, 1996, has been filed post the arbitral award dated 20th October, 2020, as corrected on 15th December, 2020, passed by the learned Arbitral Tribunal.

2. The concluding paragraphs 145 and 146 of the award read thus:

“145. Since working out of this Award would involve application of accounting principles and close scrutiny of several statements of accounts, certified bills for works executed by the Claimant and the other contractors/sub-contractors right from the inception of the contract, it is considered appropriate that the parties should appoint a Chartered Accountant within a week from the publication of this Award and place all the relevant documents before the said Chartered Accountant who would scrutinize the documents and would make the necessary calculations in the light of this Award and place his report before the Tribunal within a month from his appointment.

146. In the event the parties are unable to agree upon engagement of a Chartered Accountant, they may approach Mr. Sunil Suri, C.A. (Tel No. 011-25717424 and Mobile 9811069825) for the purpose as indicated above. They may also settle the remuneration etc. of the Chartered Accountant and share it equally between them.”

3. The parties were unable to arrive at any consensus *ad idem* regarding the Chartered Accountant who would undertake the exercise envisaged by the learned Arbitral Tribunal in the award. On their re-approaching the learned Arbitral Tribunal, the learned Arbitral Tribunal demurred from referring the matter to any specific Chartered Accountant, on the ground of delay that had been occasioned in the interregnum. The parties are also stated to have approached the Chartered Accountant appointed by the learned Arbitral Tribunal, but, he, too, refused to undertake the aforesaid exercise.

4. It is in these circumstances that this petition was filed, for an arbitrator to be appointed by this Court that, so that the arbitral award attain fruition.

5. Mr. Awasthi, learned counsel for the respondent, only contends that the matter may be referred to a Chartered Accountant as deemed fit by this Court but, keeping the interest of his client in mind, he submits that an individual may be appointed, rather than any firm of Chartered Accountants, so as to reduce the expense involved. He also points out, in this regard, that the Chartered Accountant suggested by the learned Arbitral Tribunal in para 146 was also an individual.

6. In view thereof, this Court disposes of the present petition by appointing M/s.Deepak D. Gupta & Co. [A-206 & A-207, 2nd Floor, R.G. Complex, Motia Khan, Deshbandhu Gupta Road, Near HDFC Bank, Delhi, Mobile No.9810329808, 8851526562] as the Chartered Accountants to undertake the remaining exercise as envisaged by the impugned award.

7. The remuneration of the Chartered Accountant shall be settled by the Chartered Accountant in consultation with the parties.

8. Should there be any difficulty in this regard, the either parties is at liberty to approach this Court to fix the remuneration for the Chartered Accountant.

9. The Chartered Accountant is requested to undertake and complete the exercise as envisaged by the learned Arbitral Tribunal as expeditiously as possible after giving due opportunity to both sides.

10. With the aforesaid observations, this petition stands disposed of.

C. HARI SHANKAR, J.

OCTOBER 4, 2021

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