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

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Date of decision: 21.12.2021

+ **ARB.P. 982/2021**

M/S KGL INFRASTRUCTURES

..... Petitioner

Through Mr. S.W. Haider, Adv.

versus

UNION OF INDIA

..... Respondent

**Through Mr. Jagjit Sing, Sr. St. Counsel with
Mr. Preet Singh and Mr. Vipin
Chaudhary, Advs.**

CORAM:

HON'BLE MR. JUSTICE SURESH KUMAR KAIT

JUDGMENT (oral)

1. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of Arbitrator on behalf of respondent to adjudicate the disputes with respondent. Pertinently, petitioner is a partnership firm and is engaged in the business of construction and undertakes railway contracts.

2. According to petitioner, it was awarded work for providing of limited height sub way in place of U/M L-xing no.35 at km. 38/4-4, 37 at km.40/4-5 and 39 at km. 41/5-6 under railway track between KEX-BTU section on

DSA-SMQL section under ADEN/SMQL vide acceptance letter dated 30.05.2017 for Rs.4,73,51,203/- and stipulated date of completion of work was 6 months i.e. 30.11.2017. All arrangements were made for execution of work but due to late sanctioning of block for placing of pre casted RCC boxes, substantial increase in the scope of work, late decisions, increase in cost, non-availability of funds, late sanctioning of Addendum & Corrigendum, the work was extended upto 29.02.2020.

3. Thereafter, petitioner reminded the concerned department about the preparation of final bill but it kept on evading on one pretext or the other. Petitioner again made several requests to consider making payments qua the items not paid in the final bill but the same did not fetch any result.

4. According to petitioner, due to failure of the obligations of respondent, petitioner issued letter dated 02.08.2021 invoking Arbitration as contained under clause 64 of the General conditions of the Contract, calling upon the respondent to make the payment of the claims of the petitioner and constitute the Arbitration Tribunal. In response thereto, respondent asked for a waiver under section 12(5) of the Arbitration and Conciliation Act, 1996. Hence, the present petition has been filed.

5. During hearing, learned counsel for petitioner prays that sole

Arbitrator may be appointed to adjudicate the dispute between the parties.

6. Learned counsel for respondent has objected to the averments made in the present petition however, has submitted that the disputes are arbitrable.

7. In view of the above the present petition is allowed. Accordingly, **Mr.Rakesh Khanna, Senior Advocate (Mobile: 9810021863)** is appointed sole Arbitrator in this petition to adjudicate the dispute between the parties.

8. The fee of the learned Arbitrator shall be governed by the Fourth Schedule of the Arbitration and Conciliation Act, 1996.

9. The learned Arbitrator shall ensure compliance of Section 12 of Arbitration and Conciliation Act, 1996 before commencing the arbitration.

10. The present petition stands disposed of accordingly.

11. A copy of this order be sent to the learned Arbitrator for information.

(SURESH KUMAR KAIT)
JUDGE

DECEMBER 21, 2021

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