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

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Judgment delivered on: 07.12.2021

+ **FAO 271/2021 & CM. APPL. 43968-69/2021**

SMT.SHABANA AZMI

..... Appellant

versus

M/S NATIONAL FERTILIZERS LIMITED & ANR..... Respondent

Advocates who appeared in this case:

For the Petitioner: **Mr. C.M. Grover, Advocate (Through VC)**

For the Respondent: **None**

CORAM:-

HON'BLE MR. JUSTICE SANJEEV SACHDEVA

JUDGMENT

SANJEEV SACHDEVA, J. (ORAL)

1. Appellant impugns order dated 14.12.2018, whereby appellant has been referred under Section 8 of the Arbitration and Conciliation Act, 1996, to arbitration.
2. Appellant had submitted a bid pursuant to a Notice Inviting Tender by respondent No.2. The bid was submitted online.
3. Appellant contends that there was dispute with regard to the quality of the material and the rates at which the material was offered. Accordingly, the appellant filed a suit for recovery.

FAO 271/2021

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4. Applications under Section 8 of the Arbitration and Conciliation Act, 1996 were filed by both respondent No.1 and No. 2 contending that there was an arbitration agreement between the parties and as such, the appellant was required to approach the arbitral Tribunal and not file a civil suit.

5. The Trial Court has allowed the applications by the impugned order dated 14.12.2018 and referred the Appellant to Arbitration.

6. Learned counsel submits that the auction was an e-Auction and appellant was not made aware of any arbitration clause and even the bid submission page did not contain an arbitration clause.

7. Appellant had submitted a bid pursuant to an auction notice with the bid opening date as 13.10.2014. Subject auction notice comprises of 13 pages and is numbered as 1 of 13 to 13 of 13. The arbitration clause exists at page 12 of 13 in the form of clause No. 32.

8. When the auction notice, pursuant to which the bid is submitted, contains an arbitration clause, the contention of the Appellant that the bid submission page, on the web portal, did not specifically contain the Arbitration clause cannot be accepted.

9. Parties were made aware of the terms and conditions of the tender in the auction Notice. Once appellant was made aware of the tender conditions by the auction notice, mere absence of reiteration of

the terms and conditions on the web portal would make no difference or make the terms and conditions inapplicable.

10. When appellant approached a civil court by the subject Suit, Respondents at the first instance filed an application under Section 8 of the Arbitration and Conciliation Act, 1996, seeking reference to arbitration.

11. In the facts of the case, trial court has correctly referred the parties to arbitration and directed the appellant to approach the Arbitrator for adjudication of his disputes.

12. In view of the above, I find no infirmity in the impugned order. The appeal is accordingly dismissed.

SANJEEV SACHDEVA, J

DECEMBER 7, 2021
NA