

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

**COMMERCIAL ARBITRATION APPLICATION NO.26 OF 2022
AND
COMMERCIAL ARBITRATION PETITION NO.80 OF 2022**

Hyosung T&D India Pvt. Ltd. ..Applicant/Petitioner
Vs.
M/s. Stelmec Limited ..Respondent

Mr. Nikhil Sakhardande, Senior Advocate with Ms. Shanaya Cyrus Irani and Ms. Ananya Verma i/b. J. Sagar Associates for Applicant/Petitioner. Mr. Harish Sethna with Mr. Siddharth Srivastava and Mr. Saahil Memon i/b. Link Legal for Respondent.

**CORAM : G.S. KULKARNI, J.
DATE : MARCH 29, 2022.**

PC.:

1. These are two proceedings. Commercial Arbitration Application No.26 of 2022 is filed u/s.11(6) of the Arbitration and Conciliation Act, 1996 (for short, “the Act”) praying for appointment of an arbitral tribunal to adjudicate the disputes and differences which have arisen between the parties under the Purchase Order bearing No. SL-EPC/GETCO/PQ-123/VAV/Hyosung-I/PO11 dated 08 June 2017 read with Purchase Order bearing No.PO No. SL-EPC/GETCO/PQ-123/VAV/Hyosung-1/PO11R1. Commercial Arbitration Petition No.80 of 2022 is filed under Section 9 of the Act whereby the petitioner has prayed for interim reliefs pending the arbitral proceedings.

2. The arbitration agreement between the parties is contained in clause no.20.14 and more particularly 20.14.1. There is no dispute in regard to the arbitration agreement between the parties.

3. Learned counsel for the respondent would not have any objection for the disputes and differences being referred for adjudication by appointing an arbitral tribunal.

4. Mr. Sakhardande, learned senior counsel for the applicant/petitioner would submit that section 9 petition can also, in that event, be permitted to be converted into an application under Section 17 of the Act, to be adjudicated by the arbitral tribunal. Mr. Sakhardande's submission is required to be accepted in the facts and circumstances of the case.

5. Thus, in view of the consensus between the parties for the disputes being referred for arbitration, the proceedings would not warrant any further adjudication. They are accordingly disposed of by the following order:-

ORDER

(i) Mr. Kapil Moye, Advocate of this Court is appointed as a prospective sole Arbitrator to arbitrate the disputes and differences between the parties arising under the Purchase Order bearing No. SL-

EPC/GETCO/PQ-123/VAV/Hyosung-I/PO11 dated 08 June 2017 read with Purchase Order bearing No.PO No. SL-EPC/GETCO/PQ-123/ VAV/Hyosung-1/PO11R1.

(ii) The learned sole prospective arbitrator, before entering the arbitration reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of these proceedings with a copy to be issued to both the parties;

(iii) The petition under Section 9 of the Act along with pleadings shall be treated as an application under Section 17 of the Act to be adjudicated by the learned prospective sole arbitrator;

(iv) The arbitral tribunal shall adjudicate the Section 17 application as expeditiously as possible and preferably within a period of two weeks from the date of the application being filed;

(v) All contentions of the parties including on merits of the proceedings are expressly kept open;

(vi) At the first instance, the parties shall appear before the prospective arbitrator within 15 days from today on a date which may be mutually fixed by the prospective sole arbitrator;

(vii) The proceedings are disposed of in the above terms. No costs.

(viii) Office to forward a copy of this order to the learned Arbitrator on the following address:

“address: 65, Sonawalla Building, 2nd Floor, Mumbai
Samachar Marg, Fort, Mumbai – 400 023.

Contact: 9920055066

E-mail ID: kapilmoye@hotmail.com / kapilmoye@icloud.com”.

[G.S. KULKARNI, J.]