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**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

**ARB No.184 of 2020 (O&M)
Date of Decision: 14.12.2022**

Dharmender Mohendru Consultant

.....Petitioner

Vs

M/s National Insurance Company Ltd.

.....Respondent

CORAM: *HON'BLE MR. JUSTICE RAJ MOHAN SINGH*

Present: Ms. Manju Goyal, Advocate and
Mr. Kushagra Bansal, Advocate
for the petitioner.

Mr. V. Ramaswaroop, Advocate
for the respondent.

RAJ MOHAN SINGH, J.(Oral)

[1]. The petitioner has preferred this petition under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator to resolve the dispute between the parties arising out of contract agreement dated 23.05.2016.

[2]. The petitioner being the lowest tenderer was allocated the interior work and installation of civil and structures work by the respondents. The agreement was also executed on

23.05.2016, providing for resolution of dispute through Arbitration. The date of commencement of work was 01.06.2016 and stipulated date for completion of work was 15.08.2016.

[3]. Learned counsel for the petitioner submits that after completion of work assignment to the satisfaction of the respondents, final bill to the tune of Rs.2,08,30,335.47 was drawn and paid to the petitioner after deducting the liquidated damages. Learned counsel further submits that the additional work was also done by the petitioner, for which Design Dei Gratia i.e. consultant of the respondent issued letter to the petitioner, showing successful completion of work by the petitioner after removal/rectification of defects and snags as per contractual terms and conditions. The said consultant even prepared the supplementary bill in a sum of Rs.9,96,616.50 for the additional work done by the petitioner. Despite the preparation of supplementary bill, the payment has not been released so far.

[4]. The petitioner has staked different claims ranging from claims No.1 to 8 for a total sum of Rs.60,30,783.98, the details of which are as under:-

Claim No.1 Release of amounts qua the non-payment supplementary bills dated 17.04.2017	Rs.9,46,842/-
Claim No.2 Interest @ 18% on delayed payments as of 25.08.2020 a total delay of 1220 days and further to be continued till the actual date of realization	Rs.5,69,662/-
Claim No.3 Wrongful deduction by NICL on account of Liquidated Damages	Rs.6,10,969.47
Claim No.4 Interest @18% on the delayed payment of the Amount wrongfully withheld by NICL	Rs.2,67,586.01
Claim No.5 Payment of Escalation on Account of prolongation of work from the stipulated date of completion till actual date of completion	Rs.1,24,126/-
Claim No.6 Expenses incurred on account of Idle Manpower due to delays on part of NICL	Rs.1,95,000/-
Claim No.7 Payment towards loss of profit and overheard expense due to delays on part of NICL	Rs.28,66,598/-
Claim No.8 Cost of Arbitration and Litigation Cost	Rs.3,50,000/-

[5]. Learned counsel for the respondent however, on the basis of reply filed submits that for the work done, the entire

payment has already been released in the shape of final bill and nothing is due. Learned counsel could not deny the preparation of supplementary bill by the consultant of the respondent.

[6]. In view of aforesaid facts, I am of the view that there exists a *bona fide* dispute between the parties in respect of supplementary bill. The petitioner has also claimed that final payment was released only after deduction of definite sum towards liquidated damages and the petitioner is also entitled to interest on the delayed payment under different heads as well as on account of prolongation of the work from the stipulated date of completion till actual date of the completion which ultimately resulted in incurring huge expenses on account of idle manpower and also towards loss of profit and other expenses. The completion of extended work and preparation of supplementary bill could not be denied by the respondent. The issue is arbitral in nature.

[7]. Evidently, a dispute has arisen in relation to prolongation of original target and consequences thereof. The completion of extra work is in relation to necessary consequences and such disputes are also covered by the arbitration clause, which provides for resolution of dispute through arbitration. The clause is not limited to the dispute relating only to the initial period of the contract irrespective of

the fact whether contract agreement is now in existence or not. The arbitration clause would survive also for the additional work, which has been allegedly done and the same has not been denied, rather the supplementary bill was prepared by the consultant of the respondent-Company. The Court is required to refer the dispute between the parties to the sole Arbitrator without any in-depth examination of the dispute. The Court is merely to be satisfied that the dispute falls within the ambit of the arbitration clause and in such eventuality, arbitration clause shall be treated to be an agreement independent of other terms and conditions of the contract. Reference can be made to **Everest Holding Limited Vs. Shyam Kumar Shrivastava and others, (2008) 16 SCC 774** and **Reva Electric Car Company Private Limited Vs. Green Mobil, (2012) 2 SCC 93.**

[8]. For the reasons recorded hereinabove, I hereby appoint **Sh. Bal Krishan Mehta, District and Sessions Judge (Retd.), House No.5601, Sector 38(W), Chandigarh, Mobile Nos.8872419600, 8847305200, balimehta@msn.com** as the sole Arbitrator, to resolve the dispute/difference between the parties. The appointment of the Arbitrator shall be subject to the declaration to be made by him as required under Section 12 of Arbitration and Conciliation Act, 1996 in respect of his independence and impartiality to settle the dispute between the

parties.

[9]. The Arbitrator would complete the proceedings within the specified time in terms of Section 29-A of the Act. The Arbitrator shall be paid fee in accordance with the IVth Schedule of the Act as amended from time to time. The fee shall be borne by both the parties equally.

[10]. The venue of the Arbitration shall be disclosed by the Arbitrator as per his/her convenience.

[11]. A copy of this order be dispatched to the Arbitrator on the following address:-

Sh. Bal Krishan Mehta, District and Sessions
Judge (Retd.)
House No.5601, Sector 38(W), Chandigarh,
Mobile Nos.8872419600, 8847305200,
balimehta@msn.com

[12]. Petition stands disposed of accordingly.

14.12.2022

Prince

Whether speaking/reasoned

Whether reportable

(RAJ MOHAN SINGH)
JUDGE

Yes/No

Yes/No