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

% **Date of decision 24.05.2022**

+ ARB.P. 684/2019

M/S S.S. ENGINEERS

..... Petitioner

Through: Ms. Mehak Dogra, Advocate.

versus

UNION OF INDIA

..... Respondent

Through: Mr. Himanshu Upadhyaya and Ms.
Riya Pandey, Advocates.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

NEENA BANSAL KRISHNA,J. (ORAL)

1. A petition under Section 11 of the Arbitration & Conciliation Act, 1996 read with section 151 CPC has been filed on behalf of the petitioner for appointment of independent arbitrator.

2. The facts in brief are that Sh. V.K. Kapoor, sole proprietor of the petitioner firm was awarded work pertaining to "Construction of Limited Height Subway of RDSO design, RCC boxes by cut and cover methodology in lieu of level crossing no. 2, 3 & 5 Garhi Harsaru Jn to Faruukhnagar Section" vide acceptance letter dated 11th March, 2016 for Rs.5,00,37,709.61. The stipulated date of completion of 12 months from the date of awarding the work i.e the work was to be completed by 10th March, 2017. The respondent did not show any seriousness and neither



proper site was handed over nor the drawings/ requisite instructions were given to the petitioner for execution of work despite several requests. Despite these difficulties, work was successfully completed by the petitioner on 30th June, 2018. The petitioner submitted the final bills, but the respondent kept on evading on one pretext or the other. The petitioner was coerced into signing the final bill as well as other documents in advance without protest and tender "No Claim Certificate" or else the respondent refused to give anything and release the security amount and the final bill amounts as prepared by the Department. The petitioner under immense coercion and pressure signed the final bill and other documents, though he placed the facts on record vide his letter dated 10th July, 2019. The final bill was prepared by the respondent Department but it did not include any of the claims for various items executed by the petitioner. Left with no option, the petitioner vide letter dated 24th July, 2019 invoked the arbitration clause as contained under clause 64 of the General Conditions of the Contract applicable to the parties and sought the dispute to be referred to the arbitration.

3. The respondent vide its letter dated 5th August, 2019 referred the letter to the concerned Department but no response has been received till date. The petitioner has raised a claim of Rs.2,03,24,468/- and has sought the appointment of an independent arbitrator for adjudication of his claim.

4. No reply was filed on behalf of the respondent. Learned counsel on behalf of the respondent stated that she has no objection to the appointment of the arbitrator.

5. There is a valid Arbitration Clause in the Agreement dated 14th June, 2016. Given the limited scope of examination under Section 11 of the



Arbitration & Conciliation Act, 1996, this court considers it apposite to allow the present petition.

6. Accordingly, Hon'ble Mrs. Justice Raj Rahul Garg, (Retired), Punjab & Haryana High Court (Mobile No.09467003444), is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

7. This is subject to the learned Arbitrator making the necessary disclosure as required under Section 12(1) of the Arbitration & Conciliation Act and not being ineligible under Section 12(5) of the Arbitration & Conciliation Act.

8. The parties are at liberty to approach the learned Arbitrator for further proceedings.

9. It is clarified that all rights and contentions of the parties are reserved.

10. The petition is disposed of in the aforesaid terms. All pending applications, if any, also stand disposed of.

NEENA BANSAL KRISHNA, J

MAY 24, 2022

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