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

% ***Date of decision: 16.02.2022***

+ **ARB.P. 107/2022**

**M/S ASHUTOSH BUILDERS CONTRACTORS AND
ENGINEERS** Petitioner

Through: Ms. Seema Singh, Advocate

Versus

UNION OF INDIA & ORS. Respondents

Through: Ms. Arti Bansal, Advocate

**CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT**

JUDGMENT (oral)

1. The present petition has been filed by the petitioner under Section 11 (6) of the Arbitration and Conciliation Act, 1996 seeking appointment of Arbitrator for adjudication of disputes with respondent.
2. Petitioner claims to be a contractor, carrying out various construction related activities. Respondent No.1 is Union of India, under the Ministry of Defence; respondents No. 2 to 4 are subordinate of respondent No.1. Respondent No.4 is also the accepting authority of the contract work awarded to the petitioner. For the work CA No. GE/DW-67/2019-20, petitioner claims to have entered into a Contract Agreement dated

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12.10.2019 with the respondent, which contained Arbitration Clause-70 in case of any disputes between the parties.

3. After execution of the aforesaid Contract Agreement, petitioner claims to have sent samples for 13 items for approval by the respondent such like LED fitting, Cable-1.5 sqmm, 2.5 sqmm, socket, switch etc. on 25.10.2019. However, respondent vide its communication dated 13.06.2020 informed the petitioner that samples of 04 items were not sent and further issued a Show Cause Notice dated 31.07.2020 stating that despite lapse of 09 months, samples for approval have not been sent. Petitioner vide letters dated 07.08.2020 and 31.08.2020 sought extension of time due to Covid pandemic, which was granted on 16.10.2020. In the meanwhile, petitioner also raised bill vide letters dated 19.09.2020 and 14.10.2020, but the payment was not released by the respondent.

4. Further, petitioner claims to have sent a legal notice dated 24.10.2020 to the respondent seeking outstanding payment, extension of time and completion certificate, yet again respondent vide letter dated 07.05.2021 pressed for early completion of the work. Petitioner sent a legal notice dated 26.11.2021 to respondent seeking appointment of an Arbitrator by the respondent, but the respondent failed to reply the same. Hence, the present



petition.

5. Today, respondent is represented through counsel, who submits that the claims raised in the present petition are disputed, however, fairly conceded that the disputes *inter se* parties are arbitrable. Learned counsel also submitted that respondent has no objection if disputes are referred to an independent arbitrator appointed by this Court.

6. Accordingly, the present petition is allowed and **Mr. Ramesh Chander, Retd. Chief Engineer, Delhi Vidyut Board, (Mobile: 9818245606)** is appointed the sole Arbitrator to adjudicate the dispute between the parties.

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

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

9. The present petition and pending application, if any, are accordingly disposed of.

(SURESH KUMAR KAIT)
JUDGE

FEBRUARY 16, 2022

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