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

% ***Date of decision: 11.02.2022***

+ **ARB.P. 34/2022**

SAP ELECTRO CONTRACTS (PVT) LTD Petitioner

Through **Mr.Syed Hasan Isfahani, Adv.**

versus

THE REIYUKAI Respondent

Through **Mr.Abhijit Banerjee & Mr.Nitin Chopra, Adv.**

CORAM:
HON'BLE MR. JUSTICE SURESH KUMAR KAIT

J U D G M E N T (oral)

The hearing has been conducted through video conferencing.

1. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of sole Arbitrator to adjudicate the disputes inter-se the parties.
2. According to petitioner, respondent was awarded the work order for Internal Electrical Works for Institutional Religious Building "Eternal Oasis" for total amount of Rs.82,60,000/- inclusive of all taxes e.g. Labour Cess, WCT & GST as applicable on the basis of Schedule of Rates enclosed with the work order for supply, installation, testing and commissioning of



Internal Electrical Works at the project site and a Contract Agreement was signed with all terms and conditions including BOQ. Petitioner claims to have started the said work according to the specification as per BOQ and satisfaction of respondent's consulting Engineers/Project Managers and thereafter drawings were made final from respondent's side and mobilization advance received. Thereafter on 18.04.2018, respondent awarded new work order to the petitioner for supply, installation, testing and commissioning of High Side Electrical Works Institutional Religious Building "Eternal Oasis" for total amount of Rs.44,25,000/- exclusive of GST and Labour Cess and contract agreement was also signed with all terms and conditions including BOQ. Again, petitioner started the said work according to the specification as per BOQ and satisfaction of respondent's consulting Engineers/Project Managers and thereafter drawings were made final from respondent's side and mobilization advance received. After the start of work, respondent started providing fresh drawings for those work which was already completed and directed the petitioner to dismantle everything and again carry out the work order according to the new drawings. Petitioner did so for which respondent paid extra to the petitioner. Petitioner raised the running bills for both the work order and paid the GST



as per applicable rate and respondent certified the payment and released part payments.

3. Suddenly, on 20.05.2021, respondent terminated the contract in violation of the terms and conditions of the GCC clause and work order. Petitioner contacted the respondent and demanded the payment of outstanding amount, however, respondent refused to pay the same. Subsequently, various disputes arose between the parties regarding illegal termination of the contract/work orders and non-payments of outstanding against the certified invoices/bills.

4. During the course of arguments, learned counsel for the petitioner submitted that petitioner sent a letter to respondent on 18.10.2021 requesting to settle the disputes and differences amicably as per clause 52 of GCC but of no avail. Thereafter, petitioner sent a legal notice dated 02.11.2021 and invoked the arbitration in terms of clause 52.1 of GCC and called upon the respondent to file application under Section 11 of the Arbitration and Conciliation Act, 1996 before this Court for appointment of sole arbitrator. However, respondent neither replied nor filed any application. Hence, the present petition has been filed.

5. During the course of hearing, learned counsel appearing on behalf of



the respondent has not opposed the present petition and submitted 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. Since counsel representing both the sides have consented that the disputes are arbitrable and an independent Arbitrator be appointed by this Court, the present petition is allowed.

7. Accordingly, **Mr. R.K. Dhawan, Advocate (Mobile: 9899775330)** is appointed as the sole Arbitrator to adjudicate the dispute between the parties.

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

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

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

(SURESH KUMAR KAIT)
JUDGE

FEBRUARY 11, 2022/ab