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ARB. O.P.(Com.Div) No.240 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 24.07.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb. O.P. (Com. Div.) No.240 of 2023

M/s.Arudra Engineers Private Limited,
represented by its Managing Director
Natraj Raman

...

Petitioner

vs.

M/s.Bharat Heavy Electricals Limited,
BHEL, High Pressure Boiler Plant,
Tiruchirappalli,
Tamil Nadu - 620 014.

...

Respondent

Prayer : Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint a sole Arbitrator to resolve the disputes between the petitioner and the respondent with regard to the contract for cleaning of incoloy tubes dated 05.07.2019 issued vide tender Ref. No.1501900015 dated 28.06.2019 accepted vide Purchase Order No.HE-150-7000021673/25 dated 30.08.2019.

For petitioner

: Mr.C.Seethapathy
for M/s.Raman and Associates

For respondent

: No appearance

ORDER



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This petition has been filed under Section 11 of the Arbitration and Conciliation Act seeking for appointment of an Arbitrator by this Court.

2.The petitioner is a Contractor with the respondent. They were awarded a contract for doing certain works under a Purchase Order dated 30.08.2019 issued by the respondent. The Purchase Order dated 30.08.2019 contained an annexure, duly signed by both the parties, which included the Arbitration Agreement. There seems to be a dispute between the parties arising out of the Purchase Order dated 30.08.2019, issued to the petitioner. The petitioner has made a claim against the respondent, which has arisen out of the Purchase Order. The petitioner has invoked Arbitration by issuing a notice to the respondent on 28.02.2023. The respondent had also sent a reply to the said notice on 30.03.2023. The Conciliation Proceedings has also failed as seen from the Minutes of the Meeting, dated 01.09.2021. The Arbitration Agreement entered into between the petitioner and the respondent as seen from the terms and conditions enclosed along with the Purchase Order is extracted hereunder:

'15. Resolution of disputes:

a. If dispute or difference of any kind shall arise between the



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Purchaser/Consignee and the supplier in connection with or relating to the contract, the parties shall make every effort to resolve the same amicably by mutual consultations.

b.If the parties fail to resolve their dispute or difference by such mutual consultation within 30 days of its occurrence, then, unless otherwise provided in the contract, either the Purchaser/Consignee or the Supplier may give notice to the other party of its intention to commence Arbitration, as hereinafter provided the applicable Arbitration procedure will be as per the Arbitration and Conciliation Act, 1996 of India. In the case of a dispute or difference arising between the Purchaser/Consignee and a domestic Supplier relating to any matter arising out of or connected with the contract, such dispute or difference shall be referred to the Sole Arbitration of an Officer in BHEL Trichy, appointed to be the Arbitrator by the General Manager/MM BHEL Trichy. The Award of the Arbitrator shall be final and binding on the parties to the Contract subject to the provision that the Arbitrator shall give reasoned Award in case the value of claim in reference exceeds Rs.1,00,000/- (Rupees One Lakh).

c)Venue of Arbitration: The Venue of Arbitration shall be the place from where the contract has been issued, i.e., BHEL Trichy.

d)Jurisdiction of the Court will be from the place where the tender enquiry document has been issued, i.e., Trichy, India.'

3.Admittedly, there is an Arbitration Agreement available in the Purchase Order. The respondent has also admitted the same, but in its reply dated 30.03.2023. Since there is a valid arbitration agreement available under the Purchase Order, dated 30.08.2019 and there is no



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consensus between the parties with regard to the name of the arbitrator, this Court will have to necessarily appoint an arbitrator under Section 11 of the Arbitration and Conciliation Act, 1996.

4. Notice is also served in this petition on the respondent. The name of the respondent is also printed in the cause list today. Despite the same, the respondent has chosen not to enter appearance.

5. In the result, this Original Petition is allowed as prayed for by appointing Mr.M.V.Swaroop, learned Advocate as a Sole Arbitrator to decide the dispute between the petitioner and the respondent arising out of the Purchase Order dated 30.08.2019, issued by the respondent in favour of the petitioner along with the terms and conditions enclosed with the Purchase Order in accordance with the provisions of the Arbitration and Conciliation Act, 1996. Accordingly, this Arbitration Original Petition is allowed as prayed for by issuing the following directions:

(a) Mr.M.V.Swaroop, Advocate, who is having office at No.17/5, Krishna Street, T. Nagar, Chennai - 17, (Mobile No.9003263741) is appointed as a sole Arbitrator to decide the dispute between the petitioner and the respondent arising out of the Purchase Order, dated 30.08.2019.

(b) The Arbitrator shall be paid his remuneration / fees in



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accordance with the 4th schedule of the Arbitration and
WEB COPY Conciliation Act, 1996.

(c) Both the parties shall equally share the arbitrator's
fees.

(d) The Arbitrator shall conduct the arbitration in
accordance with the provisions of the Arbitration and
Conciliation Act, 1996 and shall complete the arbitration within
the specified time as prescribed under the said Act.

24.07.2023

Index: Yes/ No
Speaking order / Non speaking order
Neutral citation : Yes / No
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ABDUL QUDDHOSE, J.

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