

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

Arbitration Case No. 164 of 2018

Date of decision: 20.1.2023.

M/s Sturdy Industries

Petitioner

Versus

Punjab State Transmission Corporation Ltd.

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Ajaivir Singh, Advocate for the petitioner.
Mr. Vikas Mohan Gupta, Advocate for the respondent.

AVNEESH JHINGAN, J (Oral):

This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') for appointment of an arbitrator for adjudication of disputes between the parties.

The petitioner entered into three contracts with the respondent for manufacture, testing, supply and delivery of 800 KM ACSR Zebra. Clause 12 of the general terms and conditions provides for dispute resolution through arbitration by a nominee of the respondent.

There was a dispute between the parties.

Learned counsel for the respondent submits that one petition is filed for appointment of an arbitrator with regard to disputes for settlement of three contracts. He further submits that the claim is barred by limitation as the security was returned to the petitioner in 2012 and notice was issued in 2018.

Learned counsel for the petitioner submits that earlier the petitioner had approached Micro & Small Enterprises Facilitation Council, his application was rejected for want of jurisdiction and thereafter petition under Section 34 of the Act was filed but the same was withdrawn with

liberty to avail remedies.

The dispute raised by learned counsel for the respondent with regard to limitation is a factual aspect which can be considered in arbitration proceedings.

Since the dispute is between the same parties and filing of one petition for appointment of arbitrator on the basis of three contracts will itself not affect the outcome of the petition.

The petition is accordingly disposed of by appointing Mr. J. S. Klar, District & Sessions Judge (Retd.), H. No. 210, Manjit Nagar, Bhadson Road, Patiala as the sole arbitrator subject to declaration to be made by him under Section 12 of the Act with regard to his independence and impartiality to settle the dispute between the parties.

The arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended. The fee of the arbitrator will be equally borne by both the parties.

The arbitrator is requested to complete the proceedings as per time limit specified under Section 29A of the Act.

It is clarified that the reference shall be subject to the petitioner's complying with all the requirements of the agreement including the condition of pre-deposit.

Copy of the order be sent to the appointed arbitrator.

[AVNEESH JHINGAN]
JUDGE

20th January, 2023.

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1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No