

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL ARBITRATION APPLICATION NO. 90 OF 2023

Darshan Roadlines Private Limited

...Applicant

Vs.

Inox Wind Limited & Anr.

...Respondents

WITH
COMMERCIAL ARBITRATION PETITION NO. 20 OF 2024

Mr. Karan Shroff a/w Avinash Joshi i/by Mulla & Mulla for the Applicant.

Mr. Cyrus Ardeshir a/w Abhishek Khare, Pranit Kulkarni, R. P. Shirole and
Tanishq Dube i/by R. P. Shirole for the Respondents.

CORAM : ARIF S. DOCTOR, J.

DATE : 11TH OCTOBER, 2024

P.C.:-

1. Learned Counsel appearing on behalf of the Petitioner submits that the disputes and differences between the parties have arisen out of following four purchase orders, all dated 17th March, 2007 read with Agreement for Operations and Maintenance Services dated 19th September, 2018:-

- i. Order dated 17th March 2017 issued to the Respondent No.1 for supply of two (2) sets of INOX make WT 2000 Wind Turbine Generators (WTG's) for Dangri Site.

- ii. Order dated 17th March 2017 issued to the Respondent No.1 for Erection and Commissioning two (2) set of INOX make WT 2000 Wind Turbine Generators (WTG's) for Dangri Site.
 - iii. Order dated 17th March 2017 issued to the Respondent No.2 for Facilitation of purchase / Procure ownership over land at Dangri.
 - iv. Order dated 17th March 2017 issued to the Respondent No.2 for power evacuation Infrastructure for power at Dangri, totalling Rs.10,60,00,000/- each, which was signed and accepted by the Respondent Nos.1 and 2.
2. Arbitration under all the agreements has been invoked today.
3. Learned Counsel for the Respondents submits that Respondents are agreeable to appointment of an Arbitrator.
4. I therefore appoint Hon'ble Mr. R. D. Dhanuka, Former Chief Justice of this Court to act as Sole Arbitrator in respect of the disputes and differences that have arisen between the parties on the following terms:-

TERMS OF APPOINTMENT

- (a) **Appointment of Arbitrator:** Hon'ble Mr. R. D. Dhanuka, Former Chief Justice of this Court is hereby nominated to act as a Sole Arbitrator to decide the disputes and differences between the parties.

(b) Communication to Arbitrator of this order:

- (i) A copy of this order will be communicated to the learned Sole Arbitrator by the Advocates for the Applicant within one week from the date this order is uploaded.
- (ii) The Advocates for the Applicant will forward an ordinary copy of this order to the learned Sole Arbitrator at the following postal and email addresses:

Arbitrator/s **Hon'ble Mr. R. D. Dhanuka,
Former Chief Justice of this
Court.**

Address C/o. Shri Chirag Shah,
Advocate, 11B Nirmal
Buidling, 11th Floor, Vidhan
Bhawan Marg, Nariman Point,
Mumbai – 4100 021.
Mumbai 400

Mobile 022-69040000

Email rdhanuka5@yahoo.com

- (c) **Disclosure:** The learned Sole Arbitrator is requested to forward, in hard copy or soft copy (or both), the necessary statement of disclosure under Section 11(8) read with Section 12(1) of the Arbitration Act to Advocates for the parties as soon as possible. The Advocates for the Petitioners will arrange to file the original statement in the Registry. If the statement is forwarded in soft copy, a print out of the covering email is also to be filed in the registry.

- (d) **Appearance before the Arbitrator:** Parties will appear before the learned Sole Arbitrator on such date and at such place as the learned Sole Arbitrator nominates to obtain appropriate directions in regard to fixing a schedule for completing pleadings, etc.
- (e) **Contact/communication information of the parties:** Contact and communication particulars are to be provided by both sides to the learned Sole Arbitrator. The information is to include functional email addresses and mobile numbers.
- (f) **Interim Application/s:**
 - (i) Liberty to the parties to make an interim application or interim applications including (but not limited to) interim applications under Section 17 of the Arbitration & Conciliation Act, 1996 before the learned Sole Arbitrator. Any such application will be decided in such manner and within such time as the learned Sole Arbitrator deems fit.
 - (ii) The present Petition under Section 9 of the Arbitration Act will be treated, heard, and disposed of as an application under Section 17 of the Act. All affidavits filed in the Section 9 petition will be treated as affidavits filed in the Section 17 application. Liberty to apply to the learned Sole Arbitrator for leave to file further affidavits.
 - (iii) The learned Sole Arbitrator is requested to dispose of all interim applications at the earliest.
- (g) **Fees:** Since the order is by consent the arbitral tribunal's fees shall not be governed by the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.

- (h) **Sharing of costs and fees:** Parties agree that all arbitral costs and the fees of the arbitrator will be borne by the two sides in equal shares in the first instance.
- (i) **Consent to an extension if thought necessary.** Parties immediately consent to a further extension of up to six months to complete the arbitration should the learned Sole Arbitrator find it necessary.
- (j) **Venue and seat of arbitration:** Parties agree that the venue and seat of the arbitration will be in Mumbai.

5. Learned Counsel for the Applicants submits that the Petition might need to be amended.

6. For this purpose, parties shall be at liberty to make appropriate application before the Arbitrator, who shall consider the same on its own merits.

7. The Petition and the Application are both disposed of in these terms.
No costs.

8. All rights and contention of Respondents qua jurisdiction and arbitrability are kept open.

(ARIF S. DOCTOR, J.)