IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE DR. JUSTICE A.K.JAYASANKARAN NAMBIAR

&

THE HONOURABLE MR. JUSTICE SYAM KUMAR V.M.

MONDAY, THE 22ND DAY OF JULY 2024 / 31ST ASHADHA, 1946

ARB.A NO. 12 OF 2023

(AGAINST THE ORDER AND DECREE DATED 30.07.2021 IN OP(ARBITRATION) NO.80 OF 2020 ON THE FILE OF THE COMMERCIAL COURT (PRINCIPAL SUB JUDGE), ERNAKULAM)

APPELLANTS/PETITIONERS:

1 **THE CHIEF ENGINEER (NW)**
MILITARY ENGINEER SERVICES,
NAVAL BASE P.O, KOCHI-682004

2 **THE ENGINEER-IN-CHIEF, DIRECTORATE OF CONTRACT MANAGEMENT, INTEGRATED HQ OF MOD(ARMY), KASHMIR HOUSE RAJAJI MARG NEW DELHI-110011.**

3 **UNION OF INDIA**
REPRESENTED THROUGH CONTRACT MANAGEMENT SECTION
MILITARY ENGINEER SERVICES
DIRECTORATE OF CONTRACT MANAGEMENT
INTEGRATED HQ OF MOD(ARMY),
KASHMIR HOUSE, RAJAJI MARG, NEW DELHI-110011.

BY ADVS.
SRI.T.C.KRISHNA, SR,CGC

RESPONDENT/RESPONDENT:

M/S AGARWAL & CO., 857, DASTUR MEHAR ROAD,
CAMP,PUNE-411001
REPRESENTED BY SATISH NAIR, PROJECT MANAGER

BY ADVS.
SRI.P.JAYABAL MENON
SMT.REKHA AGARWAL(K/591/1995),

THIS ARBITRATION APPEALS HAVING COME UP FOR ADMISSION ON 22.07.2024, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

JUDGMENT

Dr. A.K.Jayasankaran Nambiar, J.

When this Arbitration Appeal was taken up for hearing today, it was noticed that the order impugned is one that was passed by the Principal Sub Judge, Ernakulam, which is designated as a Commercial Court under the Commercial Courts Act, 2015. In **Alexander Luke v. Aditya Birla Money Ltd. [2024 KHC Online 107]** a Division Bench of this Court took the view that on a reading of Sections 6 and 10(3) of the Commercial Courts Act, the court for the purpose of consideration of a commercial dispute even if it arises under the Arbitration and Conciliation Act would be the Commercial Court, and an appeal against the order of the Commercial Court would lie only to the Commercial Appellate Court, namely, the District Court.

Under the circumstances, we are of the view that this Arbitration Appeal, should now be transferred to the District Court, Ernakulam, which is the designated Commercial Appellate Court, for consideration and disposal. Accordingly, we direct the Registry to transfer this Arbitration Appeal to the District Court, Ernakulam, where the same shall be numbered and heard expeditiously, taking note of the fact that

the arbitral award was passed as early as on 20.04.2020.

Sd/-

DR. A.K.JAYASANKARAN NAMBIAR
JUDGE

Sd/-

SYAM KUMAR V.M.
JUDGE

mns