



ARB-62-2024 (O&M)

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

280

ARB-62-2024 (O&M)
Date of Decision: 04.12.2024

M/s Sapphire N Associates Private Limited

...Applicant

Versus

M/s Orris Infrastructure Private Limited

...Respondent

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: - Mr. S.D. Singh, Advocate,
Mr. Sidharth Singh, Advocate and
Ms. Shweta Sinha, Advocate for the applicant

Mr. Surjeet Bhadu, Advocate,
Mr. Veer Singh, Advocate and
Mr. Agam Bansal, Advocate for the respondent

JAGMOHAN BANSAL, J. (Oral)

1. Through instant application under Section 11 of the Arbitration and Conciliation Act, 1996 (for short '**1996 Act**'), the applicant is seeking appointment of an Arbitrator.
2. The applicant was issued various work orders (Annexure P-1) by the respondent. A dispute erupted between the parties. There is an arbitration clause in the aforesaid work orders. The issuance of work orders, arbitration clause in the work orders and service of notice under Section 21 of 1996 Act is not disputed.

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3. Learned counsel for the respondent submits that claim of the applicant is hopelessly barred by limitation and no amount is pending against the respondent. The applicant admitted before the National Company Law Tribunal (for short 'NCLT') that matter stands settled and withdrew its application.

4. The matter was pending before NCLT and admitted liability was discharged by the respondent in 2023, thus, it cannot be held that demand raised by applicant is *prima facie* barred by limitation. The applicant withdrew its application before NCLT because respondent paid admitted liability. NCLT cannot adjudicate disputed liability under Section 9 of Insolvency and Bankruptcy Code, 2016. The disputed liability needs to be adjudicated by the Arbitral Tribunal.

5. Conditions to invoke power conferred by Section 11(6) of 1996 Act stand satisfied, thus, I hereby appoint a sole Arbitrator to adjudicate the dispute between the parties.

6. Mr. Justice Adarsh Kumar Goel, Retired Judge of Supreme Court, residing at C-2/24, Safdarjung Development Area, New Delhi- 110016, Mobile No.9910213040 is hereby appointed as a Sole Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements. The learned Arbitrator is requested to comply with mandate of Section 12 of 1996 Act before proceeding further.

7. Parties are directed to appear before the learned Arbitrator on date, time and place to be fixed by the Arbitrator at his convenience.



8. As conceded by learned counsel for the parties the venue/seat of the Arbitral Tribunal shall be Gurugram.
9. The Arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended.
10. The Arbitrator is requested to complete the proceedings as per time limit specified under Section 29-A of the 1996 Act.
11. Needless to mention, parties would be at liberty to raise all the claims/defences/counter claims/pleas before the Arbitrator. Any observation made hereinabove will not be binding on the learned Arbitrator.
12. Pending application(s), if any, shall stand disposed of.
13. A request letter along with copy of this order be sent to Mr. Justice Adarsh Kumar Goel.

(JAGMOHAN BANSAL)
JUDGE

04.12.2024
Mohit Kumar

Whether speaking/reasoned	Yes/No
Whether reportable	Yes/No