



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

ARB No.273 of 2024

Date of Decision:20.08.2024

Kaushik Enterprises and another

....Applicants

VS.

Union of India and others

....Respondents

CORAM: HON'BLE MR. JUSTICE JAGMOHAN BANSAL

Present: Mr. Amandeep Vashisth, Advocate
for the applicants

Mr. Rakesh Verma, Senior Panel Counsel
for respondents-UOI

JAGMOHAN BANSAL, J. (ORAL)

1. The applicants through instant application under Section 11(6) of the Arbitration and Conciliation Act, 1996 (for short "1996 Act") are seeking appointment of an Arbitrator to adjudicate the dispute between the parties.

2. Mr. Rakesh Verma, Senior Panel Counsel for Union of India, who on advance notice is present in Court, submits that contract in question was executed outside the jurisdiction of this Court. The work was to be executed outside the jurisdiction of this Court. In the arbitration agreement, it is specifically stipulated that Courts of place of buyer would have



jurisdiction. The applicants have approached this Court on the sole ground that they are having their premises within the jurisdiction of this Court.

3. Mr. Amandeep Vashisth, Advocate submits that office of applicants is located at Ambala and part of dispute arose within the jurisdiction of this Court, thus, the present application is maintainable and this Court can make appointment of an Arbitrator in terms of Section 11(6) 1996 Act.

4. From the perusal of terms and conditions of contract executed between the parties and arbitration clause, it is evident that they have specifically agreed that Courts of the place from where the contract has been made shall alone have jurisdiction to decide a dispute arising out of or in respect of the contract. It further provides that irrespective of place of delivery or place of performance or place of payment under the contract, the contract shall be deemed to have been made at the registered address of the buyer and/or primary buyer. The seat of arbitration has been notified as place of business of buyer department. All the disputes between the parties are subject to exclusive jurisdiction of the Court within the local limits of whose jurisdiction principal place of business of the buyer is located. The relevant extracts of arbitration agreement are reproduced as below:-

“16.2 Arbitration:

In the event of any conflict / dispute arising out of or in connection with the Contract placed through GeM, which has not been resolved in accordance with the procedure laid down in Clause 16.1 above, the aggrieved Party may invoke Arbitration by sending a written notice to the other Party. The procedure for appointment of the Arbitral Tribunal shall be as follows.



- i. *In cases where the total value of the Contract is less than INR 1,00,00,000/- (Indian Rupees One Crore only) the same shall be referred to a sole arbitrator mutually appointed by both the Parties.*
- ii. *Where the total value of the Contract exceeds INR 1,00,00,000/- (Indian Rupees One Crore only), the arbitration shall be conducted by a quorum of three arbitrators. Each party shall be entitled to appoint an arbitrator and the two party-appointed arbitrators shall within 30 (thirty) days from their nomination, appoint a third arbitrator i.e., the Presiding Arbitrator.*
- iii. *In case of failure to appoint the Presiding Arbitrator within a period of 30 (thirty) days from the date of nomination of the two arbitrators by the respective parties, the aggrieved party shall approach the High Court (under whose jurisdiction the principal place of business of the Buyer department/ organization is located) to appoint the Presiding Arbitrator as per the provisions of the Arbitration and Conciliation Act, 1996 (as amended up to date).*
- iv. *The arbitration shall be conducted in the English language. Arbitration proceedings can also be conducted online, as per the discretion of the Arbitral Tribunal.*
- v. *The cost of the Arbitration shall be equally borne by both the Parties.*
- vi. *The award of the arbitrator shall be final and binding on the Parties to the Contract. The arbitration shall be governed by the Arbitration and Conciliation Act, 1996, as amended from time to time. The seat of arbitration shall be at the place where the principal place of business of the Buyer department / organization is located.*
- vii. *The Contract shall be interpreted and governed in all respects in accordance with the laws of India. All*



disputes in connection with or arising out of the Contract, shall be subject to the exclusive jurisdiction of the Court within the local limits of whose jurisdiction principal place of business of the Buyer department / organization is located.

16.3 Both the Parties understand and agree that GeM being an Intermediary cannot be made a party to any dispute in connection with or arising out of the Contract and/or the arbitration proceedings between the Parties.

16.4 Where the arbitral award is for the payment of money, no interest shall be payable on whole or any part of the money for any period till the date on which the award is made.

17. Laws Governing the Contract:

i. The contract shall be governed by the laws of India for the time being in force.

ii. Irrespective of the place of delivery, the place of performance or the place of payment under the contract, the contract shall be deemed to have been made at the registered address of the Buyer and / or Primary Buyer.

iii. Jurisdiction of Courts: The courts of the place from where the contract has been made shall alone have jurisdiction to decide any dispute arising out of or in respect of the contract.”

5. In view of categorical stipulation qua place of dispute, seat of arbitration, Court having jurisdiction, this Court cannot entertain the instant application on the sole ground that place of applicant is within the jurisdiction of this Court or fraction of cause of action arose within the jurisdiction of this Court.



6. In view of the above facts and findings, this Court is of the considered opinion that the instant application deserves to be dismissed on the ground of jurisdiction and accordingly hereby dismissed.

(JAGMOHAN BANSAL)
JUDGE

20.08.2024
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Whether speaking/reasoned:	Yes	
Whether reportable:	Yes	