

Neutral Citation No. 2024:PHHC:043124

IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH

115+263

ARB-283-2023 (O&M)
Date of Decision:01.04.2024

M/s Critical IT Solutions (P) Ltd.

... Petitioner

Vs

Thapar University, Patiala and another

.... Respondents

CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL

Present: Mr. Chandeeep Singh, Advocate for the petitioner.

Mr. Rajat Khanna, Advocate with
Mr. Vijay Pratap Singh, Advocate for the respondents.

SUVIR SEHGAL, J. (ORAL)

CM-4659-CII-2024

1. Counsel for the applicant-petitioner submits that due to inadvertence, name of respondents No.1 and 2 have been wrongly described.
2. He submits that the instant application is being moved as an objection has been taken by the respondents in their response.
3. Notice of the application.
4. Mr. Rajat Khanna, Advocate with Mr. Vijay Pratap Singh, Advocate, accept notice on behalf of the respondents.

5. Counsel representing the respondents does not have any objection, in case, the prayer is acceded to.

6. Accordingly, application is allowed.

7. Petitioner is permitted to correct the name of respondents No.1 and 2.

8. Amended memo of parties is taken on record.

Main case

9. By way of the present petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short 'the Act'), petitioner has approached this Court for appointment of a sole Arbitrator to adjudicate the dispute which has arisen between the parties.

10. Counsel for the petitioner submits that purchase order dated 10.10.2013 (Annexure P-3) was placed on the petitioner and the delivery of the equipment was made, but the respondents did not make the payment. He submits that in response to a communication addressed by the petitioner, respondents vide its letter dated 06.07.2017, Annexure P-8, informed that the payment against the some bills is pending. Counsel submits that the petitioner invoked arbitration clause by serving a legal notice dated 26.09.2022, Annexure P-10, to which the respondents have submitted a reply dated 22.10.2022, Annexure P-11, and they have recommended the name of an Arbitrator, which is not acceptable.

11. Upon notice, petition has been contested by the respondents by filing a reply wherein it has been submitted that the notice invoking the arbitration clause is defective. It is the stand of the

respondents that the petitioner was hand in glove with Ms. Bindu Bhardwaj, Ex-Deputy Registrar, Store and Purchase, an employee of the respondent and by defrauding the respondents, excess DSIR certificates were issued to the petitioner which it misused to claim unlawful exemption from VAT. It has been further submitted that the petitioner supplied the equipment to the University at a price much higher than the minimum retail price. A complaint dated 22.08.2016, Annexure R-1, has been lodged with the police to take appropriate action against the petitioner. It has been further submitted that Ms. Bindu Bhardwaj has been terminated from service after holding disciplinary proceedings and the writ petition filed by her has been dismissed by this Court. An objection has also been raised by the respondents that the petition is barred by limitation.

12. I have heard counsel for the parties and have considered their respective submissions.

13. Although, the purchase orders were placed upon the petitioner in the year 2013 but vide communication Annexure R-3, respondents have acknowledged that the payment against some of the bills is pending. In response to legal notice issued by the petitioner, the respondents have denied its claim for payment, but simultaneously proposed the name of the Arbitrator. In the light of these facts, this Court is of the considered opinion that it does not lie in the mouth of the respondents to contest the petition on ground of limitation. However, this court is of the view that all these objections, including that of limitation, can be raised by the respondents before the

Arbitrator as has been held by the Supreme Court in ***Uttarakhand Purv Sainik Kalyan Nigam Limited Vs. Northern Coal Field Limited*** (2020) 2 SCC 455.

14. For the foregoing reasons, prayer made in the petition deserves to be acceded to.

15. Petition is allowed.

16. Mr. Justice Vivek Puri (Retd.), Former Judge of Punjab and Haryana High Court, House No. 237, Sector 16-A, Chandigarh, Mobile No. 8558800190, is requested to act as an Arbitrator to adjudicate the dispute between the parties, subject to compliance of statutory requirements.

17. Parties are directed to appear before the learned Arbitrator on date, time and place to be fixed by the Arbitrator at his convenience. Liberty is granted to the parties to appear before the Arbitrator through the medium of Video Conferencing.

18. Needless to mention, parties will be at liberty to raise all the claims/defences/counter claims/pleas including that of limitation before the Arbitrator.

19. A request letter along with a copy of this order be sent to Mr. Justice Vivek Puri (Retd.)

01.04.2024
pooja saini

(SUVIR SEHGAL)
JUDGE

Whether Speaking/Reasoned	Yes/No
Whether Reportable	Yes/No