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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ ARB.P. 21/2024

SANDEEP KUMAR

..... Petitioner

Through: Mr. Ankit Jain & Mr. Mohit
Gupta, Advocates.

versus

INDIAN OIL CORPORATION LTD.

..... Respondent

Through: Mr. Amit Meharia, Ms. Tannishtha
Singh, Mr. Abinash Agarwal,
Advocates. [M:-9953676030]

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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22.02.2024

1. By way of this petition under Section 11 of the Arbitration and Conciliation Act, 1996, the petitioner seeks appointment of an arbitrator for adjudication of disputes under four contracts between the same parties – dated 01.06.2020, 15.06.2020, 16.07.2020 and 30.07.2020 – which were issued pursuant to tenders awarded to the petitioner herein. There was a fifth tender, in respect of which a work order dated 15.05.2020 was also issued, but the contract in respect thereof was not formally executed between the parties.

2. The petitioner's claims arise from deductions made under the first four contracts in respect of losses allegedly suffered by the respondent, on the ground that the fifth contract for which a work order was issued by



the respondent was not finally executed.

3. Mr. Amit Meharia, learned counsel for the respondent, raises various objections to the present petition, including that the petitioner's claims are in fact in respect of the fifth contract/work order, that a single petition for appointment of an arbitrator in respect of all four contracts is not maintainable, that jurisdiction under two of the four contracts would lie with the Courts in Panipat, and that the claims are in any event non-arbitrable at this stage, as the arbitration clauses only provide for adjudication of notified claims.

4. Mr. Ankit Jain, learned counsel for the petitioner, without prejudice to the rights and contentions of the petitioner on the other objections, accepts that the claims sought to be arbitrated have not been notified.

5. In view of the judgment of the Supreme Court in *Indian Oil Corporation Ltd. vs. NCC Ltd.* [(2023) 2 SCC 539], he seeks permission to withdraw this petition with liberty to agitate the petitioner's claims by way of appropriate proceedings at the appropriate stage.

6. The petition is dismissed as withdrawn with liberty as aforesaid. All rights and contentions of the parties are left open.

PRATEEK JALAN, J

FEBRUARY 22, 2024

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