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

+ **O.M.P. (COMM) 52/2021 & I.As. 1926-1927/2021**

TRANS IMAGE CORPORATION

.....Petitioner

Through: Mr. Adirath Singh, Mr. Jatin
Sehgal, Ms. Molly Sharma, Mr.
Aditya Varun & Mr. Raymon
Singh, Advocates.

versus

**PRASAR BHARTI BROADCASTING
CORPORATION OF INDIA & ANR.**

.....Respondents

Through: Mr. Uddyam Mukherjee, Mr.
Swapnil Pattanayak, Mr. Agnibha
Chatterjee, Advocates with Mr.
Aditya Chaturvedi, DDG
(Engineering), Prasar Bharti.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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07.08.2024

1. The petitioner assails an arbitral award dated 13.03.2020 by which a learned arbitrator has adjudicated disputes between the parties under an agreement awarded to it by the respondent vide letter of award dated 23.01.2008.

2. The agreement was for purchase of antenna by the respondent from the petitioner. The respondent purported to terminate the agreement by a letter dated 31.08.2009. This led to invocation of the arbitration clause



under the agreement.

3. Both parties filed claims and counterclaims before the learned arbitral tribunal, all of which have been rejected. The learned arbitral tribunal has come to a conclusion that the termination of the contract by the respondent was valid. However, the counterclaims have been rejected *inter alia* on the ground that respondent failed to establish any loss.

4. Mr. Adirath Singh, learned counsel for the petitioner, limits the challenge to one aspect only, namely, that the learned arbitrator ought to have accepted the petitioner's claim for return of the amount of security deposit, and interest thereupon, which were claimed in Claim 'B' and Claim 'G'. Mr. Singh submits that the rejection of these claims are inconsistent with the finding of the learned arbitrator that the respondent had not shown any loss. He cites the judgment of the Division Bench in *Mahanagar Telephone Nigam Ltd. vs. Finolex Cables Limited* [2017 SCC OnLine Del 10497], in this connection.

5. It may be noted that the respondents have not challenged the award.

6. In the course of hearing Mr. Uddiyam Mukherjee, learned counsel for the respondent, instructed by Mr. Aditya Chaturvedi, Deputy Director General, Prasar Bharti, who is present on video conference, submits that the award on Claim No. B and the claim for interest upon the said claim [part of Claim G] may be set aside. Mr. Mukherjee requests that an arbitrator may be appointed by this Court to adjudicate this claim on the basis of the materials already placed on record, and at the stage of final hearing only. This submission is also accepted by learned counsel for the petitioner.



7. Having regard to the aforesaid, the petition is disposed of with the following directions:-

- a. The impugned award dated 13.03.2020 is set aside, to the extent of the rejection of Claim B (with regard to the forfeiture of security deposit) and interest thereupon [part of Claim G]. The impugned award is not challenged with respect to any other claim or counterclaim. The petitioner is free to re-agitate the said claim.
- b. For this purpose, at the request of learned counsel for the parties Mr. Saurabh Seth, Advocate [Tel: 9811393402] is appointed as the arbitrator to re-adjudicate Claim B of the petitioner, and the claim for interest thereupon [part of Claim G]. The learned arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering upon the reference.
- c. The aforesaid claim will be taken up at the stage of final hearing, and adjudicated on the basis of the pleadings and evidence already recorded before the erstwhile arbitrator. The arbitral record will be placed before the learned arbitrator appointed today by learned counsel for the parties. Learned counsel for the parties assure that they will cooperate with the learned arbitrator for expeditious disposal of the proceedings.
- d. The arbitration will be held under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi [“DIAC”], and will be governed by the Rules of DIAC, including as to remuneration of the learned arbitrator.

8. All rights and contentions of the parties are left open for adjudication by the learned arbitrator, in accordance with law.



9. The petition, alongwith pending applications, stand disposed of in these terms.

PRATEEK JALAN, J

AUGUST 7, 2024

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