



\$~29 & 25

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

+ O.M.P. (COMM) 55/2023, I.A. 2432/2023 & I.A. 2434/2023

TATA POWER DELHI DISTRIBUTION LIMITEDPetitioner
Through:

versus

SAFEGUARDS HUMAN RESOURCING
PRIVATE LIMITED

.....Respondent

Through:

+ OMP (ENF.) (COMM.) 151/2023
SAFEGUARDS HUMAN
RESOURCING PVT LTD

.....Decree Holder

versus

TATA POWER DELHI
DISTRIBUTION LTD

.....Judgement Debtor

Appearances:

Mr. Dhruv Mehta, Sr. Advocate with Mr. Anand Kumar Shrivastava, Ms. Ishita Jain, Mr. Shyam Agarwal, Mr. Mudassir, Advocates for TPDDL in item No. 29.

Mr. Anand Kumar Shrivastava, Ms. Ishita Jain, Mr. Mudassir, Advocates for TPDDL in item No. 25.

Mr. Amit Dubey, Ms. Kanika Singh, Mr. Gyanender Rana, Mr. G.S. Sahay, Advocates for SHRPL.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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10.07.2024

O.M.P. (COMM) 55/2023

1. The petitioner challenges an award dated 01.11.2022 rendered by a learned sole Arbitrator in disputes arising out of a contract for the supply



of services for “*Site verification for new connections and attribute change*” by the respondent to the petitioner.

2. The arbitration was held in terms of Section 18 of the Micro Small & Medium Enterprises Development Act, 2006 [“MSME Act”]. The learned Arbitrator has awarded a sum of Rs.1,52,42,582/- to the respondent alongwith pre-award interest of Rs.53,43,179/- and further interest at the rate provided in Section 16 of the MSME Act. He has also rejected the counter claims asserted by the petitioner herein.

3. I have heard Mr. Druv Mehta, learned Senior Counsel for Tata Power Delhi Distribution Limited, and Mr. Amit Dubey, learned counsel for Safeguards Human Resourcing Pvt. Ltd.

4. Mr. Mehta has raised various contentions in support of the petition, including with regard to applicability of Sections 15 and 16 of the MSME Act to the claims of the respondent. He also submits that the learned Arbitrator has re-written the contract between the parties, proceeded on the basis of equitable considerations contrary to Section 28 of the Arbitration and Conciliation Act, 1996 [“the Act”] and failed to consider the defences placed by the petitioner.

5. While these contentions are disputed by Mr. Dubey, learned counsel for the parties have arrived at a consensus in the course of hearing, to the effect that the award may be set aside and a new arbitrator may be appointed in these proceedings, to adjudicate the claims and counter-claims. The proceedings will, however, be taken up at the stage of final hearing, on the basis of the record of the erstwhile arbitrator.

6. Having regard to the above, with the consent of learned counsel for the parties, the impugned award dated 01.11.2022 is set aside, and the



disputes are referred for final hearing to the arbitration of Mr. Arun Kumar Arya, former District Judge [Tel: 9910384687]. The learned Arbitrator is requested to make a declaration under Section 12 of the Act, prior to entering upon the reference.

7. The arbitration will be taken up at the stage of final hearing. The Delhi Arbitration Centre, under which the arbitration was held, is directed to make over the original record to learned counsel for the petitioner, who will place the record before the arbitrator appointed today.

8. The fees of the learned Arbitrator will be computed in terms of IVth Schedule of the Act.

9. It is made clear that all rights and contentions of the parties on maintainability and merits are left open for consideration by the learned Arbitrator appointed today.

10. As the award has been set aside, the amount deposited by the petitioner pursuant to the order dated 08.02.2023, will be released to the petitioner alongwith interest accrued thereupon.

11. All pending applications also stand disposed of.

OMP (ENF.) (COMM.) 151/2023

As the award under enforcement has been set aside by the order passed today in O.M.P. (COMM) 55/2023, the enforcement proceedings are disposed of.

PRATEEK JALAN, J

JULY 10, 2024

'Bhupi'/'