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

+ **ARB.P. 180/2024 & I.A. 3028/2024**

CY ENGINEERING INDIA PVT LTD

..... Petitioner

Through: Mr. Prateek Bhatia, Advocate *via*
video-conferencing with Mr. Luv
Virmani, Advocate.

versus

CINDA ENGINEERING AND CONSTRUCTION PVT LTD

..... Respondent

Through: Mr. Neil Hildreth, Mr. Rahul Jain,
Mr. Kshitiz Arya, Ms. Gauhar Mirza
and Ms. Hiral Gupta, Advocates.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER
08.02.2024

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At the outset, learned counsel has entered appearance on behalf of the respondent on advance copy; and very fairly submits that considering the contractual arrangement between the parties, they do not dispute that there is an arbitration agreement between the parties and further that disputes have arisen between them. Counsel however submits that the respondent would be interested in attempting a mediated settlement in the matter.

2. Learned counsel for the petitioner concurs in the submission.



3. A perusal of the record shows that the disputes are stated to have arisen between the parties from Agreements dated 15.07.2020 and 22.04.2021.
4. Upon a perusal of the agreements, this court is satisfied that there is a valid and subsisting arbitration agreement between the parties as contained in clause No. 15 of Agreement dated 15.07.2020 and Article 13 of Agreement dated 22.04.2021; that this court has territorial jurisdiction to entertain and decide the present petition; and also states that disputes that are stated to have been arisen between the parties as set-out *inter-alia* invocation notice dated 27.11.2023 do not appear *ex-facie* to be non-arbitrable.
5. Learned counsel appearing for the respondent also submits that they may also have counter-claims against the petitioner.
6. In the circumstances, the course that commends itself for acceptance to this court, is to appoint a sole arbitrator to adjudicate upon the disputes between the parties; and to then hold the appointment in abeyance, affording to the parties sufficient time to attempt an amicable resolution of their *inter-se* disputes through mediation.
7. Accordingly, the present petition is allowed and **Hon'ble Ms. Justice Gita Mittal, former Chief Justice of the Jammu & Kashmir and Ladakh High Court (Cellphone No.: +91 9818000220)** is appointed as the learned Sole Arbitrator to adjudicate upon the disputes between the parties. Furthermore, as requested, let the arbitration proceedings be conducted under the aegis of the DIAC, in accordance with applicable rules.



8. Also, in view of the request made by counsel, and to afford to the parties an opportunity for a mediated settlement, the order appointing the learned Arbitrator is held in abeyance for a period of **02 months** from the date of release of this order, during which time the parties are at liberty to attempt a mediated settlement of their disputes; failing which, the order of appointment shall take effect.
9. Accordingly, parties are referred to mediation before the Delhi High Court Mediation & Conciliation Centre, with a request to the learned Organizing Secretary to appoint an appropriate mediator in the matter.
10. At request, list before the Mediation Centre on Tuesday i.e. 13th February 2024 at 2:30 P.M. for the purpose.
11. A copy of this order be sent to the learned Organizing Secretary of the Mediation Centre, for information and compliance.
12. If mediation were to fail, parties are directed to approach the learned Arbitrator appointed within 10 days of closure of the mediation proceedings.
13. The learned Arbitrator may then proceed with the arbitral proceedings subject to furnishing to the parties requisite disclosures as required under section 12 of the A&C Act; and in the event there is any impediment to the appointment on that count, the parties are given liberty to file an appropriate application in this court.
14. The learned Arbitrator shall proceed with the arbitral proceedings in accordance with the rules and regulations of DIAC and subject to arbitrator's fee and arbitration costs, as may be applicable.



15. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Sole Arbitrator on merits, in accordance with law.
16. A copy of this order be communicated *forthwith* to the Co-ordinator, DIAC, for information and compliance.
17. A copy of this order be sent by e-mail to the learned Sole Arbitrator, as also to learned counsel for the parties.
18. The petition stands disposed-of in the above terms.
19. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 8, 2024

V.Rawat

(Released on : 12th February 2024)