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

+ **ARB.P. 194/2024**

M/S AMBAY BUILDINFRA PVT. LTD

..... Petitioner

Through: Mr. S.W. Haider and Ms. Pooja Dua,
Advocates.

versus

UNION OF INDIA

..... Respondent

Through: Mr. Jagdish Chandra, SPC with Mr.
Prakhar Srivastav, Advocate.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

22.05.2024

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By way of the present petition under section 11 of the Arbitration & Conciliation Act 1996 ('A&C Act'), the petitioner seeks appointment of a Sole Arbitrator to adjudicate upon the disputes that are stated to have arisen with the respondent from Contract Agreement dated 22.10.2019 ('Agreement').

2. Notice on this petition was issued on 12.02.2024. However the respondent has not filed any reply.
3. Mr. S.W. Haider, learned counsel for the petitioner has drawn the attention of this court to clause 64 of the General Conditions of Contract which comprises the arbitration agreement; and contemplates reference of disputes between the parties to arbitration in accordance with the A&C Act; with the 'place' of arbitration being within the geographical limits of the Division of the Railway where the cause of action arose or the Headquarters of the concerned Railway is situate. The petitioner pleads in para 18 of the petition that



since the respondent has its Headquarters in Delhi, the petition is maintainable before this court.

4. As per the record, the petitioner invoked arbitration *vide* Notice dated 10.07.2023; to which the respondent has not sent any reply.
5. Learned counsel appearing on behalf of the respondent submits, that upon considering the matter, the respondent is agreeable to a Sole Arbitrator being appointed in the present matter to adjudicate upon the disputes that are subject matter of the present petition.
6. Upon a conspectus of the averments contained in the petition, the stand taken by the respondent, and the submissions made, this court is satisfied that there is a valid and subsisting arbitration agreement between the parties; that this court has territorial jurisdiction to entertain and decide the present petition; and also that the disputes that are stated to have arisen between the parties, as set-out *inter-alia* in invocation notice dated 10.07.2023, do not appear *ex-facie* to be non-arbitrable.
7. At this stage, learned counsel for the parties jointly request that this court may appoint an arbitrator; and then refer the matter for arbitration under the aegis of the Delhi International Arbitration Centre, New Delhi ('DIAC'), keeping all their respective factual and legal contentions open.
8. Accordingly, the present petition is allowed and **Hon'ble Mr. Justice J.R. Midha, former Judge of the Delhi High Court (Cellphone No.: +91 9717495003)** is appointed as the learned Sole Arbitrator to adjudicate upon the disputes between the parties; with arbitration



proceedings to be conducted under the aegis of the DIAC, in accordance with applicable rules.

9. The learned Sole Arbitrator would furnish 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.
10. The learned Arbitrator shall then 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.
11. 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.
12. A copy of this order be communicated *forthwith* to the Co-ordinator, DIAC, for information and compliance.
13. A copy of this order be communicated by the Registry *via* e-mail to the learned Sole Arbitrator, as also to learned counsel for the parties.
14. The petition stands disposed-of in the above terms.
15. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

MAY 22, 2024/ak