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

+ **ARB.P. 253/2023**

SARENS HEAVY LIFT INDIA PRIVATE LIMITED

..... Petitioner

Through: Mr Dibya Nishant, Mr Pallav Kumar
and Ms Bitisha Singh, Adv.

versus

INOX WIND LIMITED

..... Respondent

Through: Mr Ajay Bhargava and Mr Milind
Jain, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

24.01.2024

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1. This is a petition seeking appointment of an arbitrator to adjudicate and decide the dispute and differences arising out of the Parent Company Guarantee dated 19.04.2022.
2. The brief facts are that the M/s INOX Green Energy Services Limited i.e. the sister company of INOX Wind Ltd. i.e. the respondent herein, had entered into a settlement dated 19.04.2022 with the petitioner.
3. The respondent i.e. the guarantor had extended an irrevocable and unconditional guarantee to the petitioner (i.e. the beneficiary) that in case INOX Green Energy Services Ltd. (IGESL) does not honour its duties, obligations, commitment, undertaking, warranties under the settlement agreement dated 19.04.2022, the petitioner would be entitled to invoke the Parent Company Guarantee.
4. As per the petition, M/s INOX Green Energy Services Limited did not



honour its commitment as per the settlement dated 19.04.2022, hence, the petitioner invoked the dispute resolution mechanism in terms of the Parent Company Guarantee.

5. The dispute resolution mechanism reads as under:

“6. DISPUTE RESOLUTION, GOVERNING LAW AND JURISDICTION

6.1 It is expressly agreed to I by and between the parties that if any dispute arises between the Parties in connection with, the validity, interpretation, implementation or breach of any provision of this Agreement or on account of any claim by one against the other, shall be settled through arbitration. All such disputes, differences or disagreements shall be finally decided by panel of Three Arbitrators. The arbitration shall be held in accordance with the provisions of the Arbitration and Conciliation Act, 1996 as amended up to date. Each Party has right to nominate one Arbitrator and both the nominee arbitrator shall nominate presiding Arbitrator.

6.2 The venue and place of arbitration shall be the Delhi and the language of arbitration shall be English. The award passed by the Arbitral Tribunal shall be final, binding and conclusive between the Parties and the succeeding Party shall be entitled to Cost.

6.3 This Contract/ Agreement shall be interpreted and governed in all respects by the laws of India and the Courts of Delhi shall have exclusive jurisdiction to entertain and try any dispute or matter relating to or arising out of this Contract/Settlement Agreement.”

6. The petitioner invoked the arbitration clause vide legal notice dated 06.06.2022 and 13.12.2022 in the present case i.e. ARB.P. 253/2023.

7. Mr. Jain, learned counsel for the respondent states that since the other matter i.e. O.M.P.(ENF.)(COMM.) 66/2023 was pending, no reply has been filed in the present arbitration petition. I am unable to agree as on 25.07.2023, the respondent was specifically given time to file a reply.



8. The parties agree that in place of an Arbitral Tribunal consisting of three Arbitrators, a sole Arbitrator may be appointed.

9. For the said reasons, the application is allowed with the following directions:

- i) Mr. Rajiv Saxena, (Adv.), (Mob. No. 9810811180) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
- ii) The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi hereinafter, referred to as the 'DIAC'). The remuneration of the learned Arbitrator shall be in terms of the Fourth Schedule of the Arbitration & Conciliation Act, 1996.
- iii) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- iv) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
- v) The parties shall approach the learned Arbitrator within two weeks from today.

JASMEET SINGH, J

JANUARY 24, 2024/DM

[Click here to check corrigendum, if any](#)