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IN THE HIGH COURT OF DELHI AT NEW DELHI

+ ARB.P. 243/2024 & I.A. 4284/2024

LEAP INFRAASYS PVT LTD

..... Petitioner

Through: Mr. Ankit Miglani, Advocate.

versus

TEXMACO RAIL AND ENGINEERING LTD Respondent

Through: Mr. Sameer Parekh, Ms. Smita Bhargava, Ms. Sreeparna Basak and Ms. Ruchi Chauhan, Advocates.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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09.04.2024

1. The petitioner has filed this petition under Section 11 of the Arbitration and Conciliation Act, 1996 [“the Act”], for appointment of an arbitrator for adjudicating disputes between the parties under a Letter of Intent dated 11.04.2019. The General Terms and Conditions contain an arbitration clause [Clause 19], which provides for adjudication of disputes by a sole arbitrator. New Delhi is designated as the place of arbitration.
2. Although, the clause provides for unilateral appointment of an arbitrator by the Executive Director and Chief Executive Officer of the respondent, it is an admitted position that such a unilateral appointment is impermissible in view of the judgments of the Supreme Court in *TRF Limited vs. Energo Engineering Projects Limited* [(2017) 8 SCC 377] and

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Perkins Eastman Architects DPC vs. HSCC (India) Limited [(2020) 20 SCC 760] and other judgment following these.

3. Disputes having arisen between the parties, the petitioner invoked arbitration by a communication dated 26.09.2023, which did not elicit a response.

4. Mr. Sameer Parekh, learned counsel, appears on behalf of the respondent pursuant to notice issued on 23.02.2024, and submits that the respondent has no objection to the appointment of an arbitrator for adjudication of the disputes.

5. With the consent of learned counsel for the parties, the petition is disposed of by referring the disputes between the parties to arbitration of Hon'ble Mr. Justice Vinod Goel, former Judge of this Court [Tel: 9910384637], under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi ["DIAC"]. The arbitration proceedings will be governed by the Rules of DIAC, including as to remuneration of the learned Arbitrator.

6. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.

7. It is made clear that all rights and contentions of the parties are left open for adjudication by the learned Arbitrator.

8. Pending application too stands disposed of.

PRATEEK JALAN, J

APRIL 9, 2024

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