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

+ **ARB.P. 320/2024 & I.A. 5195/2024**

VIKRAM RAHEJA

..... Petitioner

Through: Ms. Sonali Arora and Mr. Sudhir
Gupta, Advocates.

versus

**SNA GLOBAL PROJECTS PRIVATE LIMITED
& ORS.**

..... Respondents

Through: Ms. Pallavi, Advocate for R-1 to 3.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

05.03.2024

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1. The petitioner has approached this Court under Section 11 of the Arbitration and Conciliation Act, 1996 [“the Act”], for appointment of an arbitrator to adjudicate disputes between the parties under an Agreement dated 13.12.2022, entitled “*Consignee Sales Agent (CSA) Agreement*” [“Agreement”].

2. The Agreement contains an arbitration clause [Clause 9], which provides for arbitration by Chief Executive Officer [“CEO”] of respondent No. 1 or a person nominated by him.

3. Disputes having arisen between the parties, the petitioner invoked arbitration by a letter dated 05.10.2023. There was no response to the letter, which has led to institution of the present petition.

4. At the very outset, Ms. Sonali Arora, learned counsel for the petitioner, accepts that the Agreement is between the petitioner and

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respondent No. 1 alone and, therefore, seeks appointment of an arbitrator to adjudicate disputes only with respect to respondent No. 1. Respondent Nos. 2 and 3, who are Directors of respondent No. 1, but not parties to the Agreement in their individual capacity, are deleted from the array of parties at the request of learned counsel for the petitioner.

5. Ms. Pallavi, learned counsel, enters appearance on behalf of the respondents on advance notice and submits that respondent No. 1 has no objection to the appointment of an arbitrator, but suggests that the parties be referred to mediation so that an attempt can be made to resolve their disputes mutually. Ms. Arora has no objection to this request.

6. Learned counsel for the parties also accept the position that unilateral appointment of the arbitrator by the CEO of respondent No.1 would be contrary to law, in view of the judgment of the Supreme Court in *TRF Limited vs. Energo Engineering Projects Limited* [(2017) 8 SCC 377] and *Perkins Eastman Architects DPC & Anr. vs. HSCC (India) Limited* [(2020) 20 SCC 760], and other judgments which follow them.

7. With the consent of learned counsel for the parties, the petition is disposed of with the following directions:

- a. The parties are referred to mediation under the aegis of Samadhan, Delhi High Court Mediation and Conciliation Centre, Shershah Road, New Delhi-110503.
- b. They will appear before the learned Mediator on 11.03.2024.
- c. In the event the mediation proceedings are unsuccessful, the disputes between the parties will be adjudicated by arbitration, under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi [“DIAC”]. DIAC is



requested to nominate an arbitrator from its panel.

- d. The arbitration proceedings will be governed by the Rules of DIAC, including as to remuneration of the learned Arbitrator.
- e. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.
- f. DIAC is requested to defer the proceedings for a period of four weeks from today, to enable the parties to resolve their disputes through mediation, and can enter into reference anytime thereafter, upon request of either party.

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

9. Pending application too stands disposed of.

PRATEEK JALAN, J

MARCH 5, 2024

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