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

+ **ARB.P. 592/2023**

M/S TRIVENI ENGINEERING AND INDUSTRIES LIMITED

..... Petitioner

Through: Mr.Harpreet Singh and Mr. Rajesh
Gupta, Advs.

versus

BHARAT HEAVY ELECTRICALS LIMITED Respondent

Through: Mr.A.K. Roy, Adv.(VC)

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

16.02.2024

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1. The present petition has been filed under Section 11(6)(B) of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the 'A&C Act'), seeking the appointment of an Arbitral Tribunal comprising of a sole arbitrator, to adjudicate the disputes between the parties.
2. Learned counsel for the petitioner submits that a Notice Inviting Tender was issued by the respondent dated 25.11.2008 and along with a notice inviting tender, the general conditions of the contract were also issued. The general commercial terms and conditions and special conditions of the contract were part of the bid document. Clause -33 of the GCC contains the arbitration clause with the venue of arbitration at New Delhi. The respondent issued a letter of intent dated 31.07.2009 and pursuant to that, a purchase order dated 25.08.2009



and a work order dated 26.08.2009 were issued. The revised purchase order dated 18.09.2013 and the work order dated 31.12.2013 were also issued. However, thereafter certain disputes arose between the parties. The petition has invoked the arbitration vide notice dated 10.02.2023.

3. The parties were referred to the mediation. However, the parties could not reach any settlement.
4. Learned counsel for the respondent seeks time to file the reply. However, the agreement contains an arbitration clause and the same has not been disputed. Learned counsel submits that there are certain contentions of the respondent against the claim made by the petitioner which are to be brought on the record.
5. Learned counsel for the respondent submits that there are certain counterclaims that need consideration.
6. The Court considers that the jurisdiction of the Court while referring the matter to the arbitration under Section 11, is very limited. The Court is only required to see whether there is an agreement that contains the arbitration clause and whether there is an arbitrable dispute between the parties. Reliance can be placed upon *M/S. Duro Felguera, S.A. Versus M/S. Gangavaram Port Limited*, 2017 9 SCC 729. The claim amount is around Rs.75 lakhs.
7. In these circumstances, the matter is disposed with the following directions:
 - i) The disputes between the parties under the said agreement are referred to the arbitral tribunal.
 - ii) As agreed by both the counsels for the parties, Mr. Shiv Singh



Yadav, Advocate, SCI SCBA No.255Y Supreme Court of India, Mobile no. (9310756750) is appointed as an Arbitrator to adjudicate the disputes between the parties.

iii) 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 accordance with the fees schedule of DIAC.

iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act before entering into the reference.

v) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claims, 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.

vi) The parties shall approach the learned arbitrator within two weeks from today.

8. The petition is disposed of in the above terms.

DINESH KUMAR SHARMA, J

FEBRUARY 16, 2024

Pallavi