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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 660/2024**
M/S. MEMAR INTERIORSPetitioner
Through: **Mr. Pawan Kumar, Adv.**

versus

TIPPING MR. PINK PVT LTDRespondent
Through: **Ms. Surbhi Sharma and Mr. Anshveer Singh Nalwa, Advs.**

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
12.07.2024

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1. This is a petition seeking filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator to adjudicate the disputes between the parties.
2. The petitioner had executed work at different locations vide five work orders, namely, Work Order BS/Interior/Janakpuri/18-19/007 dated 04.05.2019, BS/Interior/Chhatarpur/18-19/008 dated 08.06.2019, BS/Interior/Noida-Sector-45/18-19/009 dated 17.06.2019, BS/Interior/Rohini/18-19/009 dated 17.06.2019, and BS/Interior/Rajinder Place/19-20/011 dated 26.07.2019, wherein the respondent had placed order to carry out customized design/interiors, civil and electrical work.
3. It is stated that there were disputes between the parties and the petitioner is entitled to an outstanding amount of Rs. 18,09,403/-
4. The arbitration clause is contained in the said work orders, which reads as under:-



“Any dispute arising out of this order, which cannot be settled by mutual agreement, shall be referred to arbitration as per "Arbitration and Conciliation Act 1996". The place of arbitration should be New Delhi”.

5. The petitioner invoked arbitration *vide* various legal notices, and lastly on 04.02.2022.
6. Ms. Sharma, learned counsel appears for the respondent and has handed over a reply in Court.
7. The primary objection of the respondent is that the signatories of the said work orders were not authorized to sign the work orders. It is stated that they had misappropriated their powers and caused loss to the respondent company.
8. In addition, she states that they are at present ex-employees of the respondent company.
9. Ms. Sharma further states that a complaint under Section 156(3) of CrPC against those ex-employees was filed, and the same was allowed by the learned MM on 15.05.2023. Pursuant to the same, an FIR has been registered.
10. I have heard learned counsels for the parties.
11. From the documents placed on record, it seems that the dates on which the work orders were issued, the signatories of the work orders were the employees of the respondent.
12. The petitioner cannot be concerned with the internal functioning of the respondent and as to whether the employees who were signing the work orders were doing so by defrauding the respondent company.
13. All the work orders contained an arbitration clause and on the date the



people who signed seem to be the employees of the respondent.

14. In any case, the said issue will be adjudicated by the Arbitrator as and when the respondent files its statement of defence/counter claims/application under section 16 of the Arbitration and Conciliation Act, 1996.

15. For the time being, eye of the needle test shows that there is an arbitration clause in the work orders.

16. For the said reasons, the petition is allowed. Since the parties are still having disputes between them, the following directions are issued:-

- i) Mr. Amol Sinha, Adv (Mob. No. 9560020333) 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/counter 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.

17. The petition is allowed and disposed of in the aforesaid terms.
18. Reply is taken on record.

JASMEET SINGH, J

JULY 12, 2024 / NG

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