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

+ ARB.P. 995/2023

SH. RAM NIWAS ROHILLA

..... Petitioner

Through: Mr. Rajeev Kumar, Ms. Alka
Srivastava, Advocates.

versus

M/S JYOTI SARUP MITTAL (A REGISTERED
PARTNERSHIP FIRM)

..... Respondent

Through: Mr. Nikhil Fernandes, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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30.01.2024

1. This petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 [“the Act”] for appointment of an arbitrator to adjudicate disputes between the parties arising out of an agreement dated 02.12.2019 for provision of consultancy services by the petitioner to the respondent.

2. It appears that the respondent firm was engaged in the business of construction in the course of which it was involved in arbitration proceedings with various clients. The petitioner, a former Engineer, Central Public Works Department, was engaged as a consultant to assist the respondent firm in putting forward its case in those arbitration proceedings.

3. The parties entered into a written agreement dated 02.12.2019, a copy whereof has been placed on record as document No. P-1. The



document is signed by both the parties and contains a dispute resolution clause which states that disputes between them would be resolved under the Act.

4. Learned counsel has entered appearance on behalf of the respondent. He submits that the agreement is not disputed and the Court may appoint an arbitrator to adjudicate the disputes. However, he states that the respondent would like to make an attempt to settle the petitioner's claim in mediation.

5. Learned counsel for the petitioner is also agreeable to such a course.

6. The existence of the arbitration agreement and invocation thereof being undisputed, 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, Delhi High Court, Shershah Road, New Delhi. They will appear before learned Mediator on 06.02.2024.
- B. In the event disputes between the parties under the agreement dated 02.12.2019 are not resolved in mediation, they will be adjudicated under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi ["DIAC"]. DIAC is requested to nominate an arbitrator from its panel. The arbitral proceedings will be governed by the Rules of DIAC, including as to the remuneration of the learned Arbitrator.
- C. The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.



D. DIAC and the learned Arbitrator are requested to defer the arbitration until 01.04.2024. In the event the parties require further time, they may jointly approach DIAC for deferring the arbitration proceedings.

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

8. The petition stands disposed of in terms of the aforesaid.

PRATEEK JALAN, J

JANUARY 30, 2024

“Bhupi”/