



2024:DHC:6915



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **ARB.P. 950/2024****RADICO KHAITAN LIMITED**

.....Petitioner

Through: **Mr. Kamal Garg, Adv.**

versus

NARGESH KUMAR

.....Respondent

Through:

CORAM:**HON'BLE MR. JUSTICE C.HARI SHANKAR****JUDGMENT (ORAL)**

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06.09.2024

1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996¹, seeking reference of the disputes between the parties to arbitration.

2. Service has been effected on the respondent. None has appeared for the respondent when the matter is called out. No reply has been filed on behalf of the respondent either.

3. The petitioner invokes the arbitration clause contained in the invoices raised by the petitioner on the respondent against which payments, according to the petitioner remain due from the respondent. These invoices envisage resolution of disputes by arbitration, fixing the seat of arbitration as Delhi.

4. Though the arbitration agreement envisages the appointment of



2024:DHC:6915



an arbitrator by the petitioner, in view of the law laid down by the Supreme Court in *Bharat Broadband Network Ltd v United Telecoms Ltd*², *Perkins Eastman Architects DPC v HSCC (India) Ltd*³ and *Haryana Space Application Centre (HARSAC) v Pan India Consultants Pvt Ltd*⁴, such an arbitration clause cannot be worked.

5. The petitioner addressed a notice to the respondent under Section 21 of the 1996 Act on 23 February 2024, seeking resolution of disputes by arbitration. The respondent has not replied. The petitioner has, therefore, approached this Court under Section 11(6) of the 1996 Act.

6. The claim of the petitioner against the respondent is said to be in the region of ₹ 7 lakhs.

7. Accordingly, this dispute is referred to the Delhi International Arbitration Centre⁵ to appoint a suitable Arbitrator to arbitrate on the disputes.

8. The arbitration shall take place under the aegis of the DIAC and would abide by its rules and regulations.

9. The learned arbitrator shall be entitled to charge fees as per the schedule of fees maintained by the DIAC.

²(2019) 5 SCC 755

³(2020) 20 SCC 760

⁴(2021) 3 SCC 103

⁵“the DIAC”, hereinafter



2024:DHC:6915



10. The learned arbitrator is also requested to file the requisite disclosure under Section 12(2) of the 1996 Act, within a week of entering on the reference.

11. The petition stands allowed in the aforesaid terms.

C. HARI SHANKAR, J.

SEPTEMBER 6, 2024

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Click here to check corrigendum, if any

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Page 3 of 3

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