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

+ **ARB.P. 962/2024**

M/S SB EQUIPMENTS LLP

.....Petitioner

Through: Mr. Vibhor Garg, Mr. Diksha
Kakkar and Mr. Ravindra Kumar,
Advocates

versus

**MINISTRY OF DEFENCE, GOVERNMENT OF INDIA
THROUGH DIRECTORATE GENERAL OF ORDINANCE
SERVICES**

.....Respondent

Through: Mr. Bhagwan Swarup Shukla,
CGSC with Mr. Rajat Rajoria
Singh, G.P., Mr. Ashwini Kumar
Shukla and Mr. Bhanu Pratap
Singh, Advs. with Lt. Karnal H.P.
Singh.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
24.07.2024

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1. By way of present petition under Section 11 of the Arbitration & Conciliation Act, 1996 ["the Act"], the petitioner seeks appointment of an arbitrator to adjudicate disputes between the parties under a Supply Order dated 03.05.2016 ["the Agreement"].
2. The Agreement admittedly contains an arbitration clause [Clause 3 of Part III]. Disputes having arisen between the parties, the petitioner invoked arbitration by letter dated 01.04.2024, to which no reply was received. The petitioner has, therefore, approached this Court under Section 11 of the Act.
3. Notice was issued by order dated 08.07.2024, and Mr. Bhagwan

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Swarup Shukla, learned Central Government Standing Counsel, was granted time to take instructions. He has handed over a copy of an affidavit in reply to the petition, which is taken on record.

4. The affidavit does not dispute existence of the arbitration clause. However, the contention of the respondent–Union of India concerns accord and satisfaction of the claims by full and final settlement, and bar of limitation. Both these aspects are within the domain of consideration of the learned arbitrator.

5. The very recent judgement of the Supreme Court in *SBI General Insurance Co. Ltd. vs. Krish Spinning* [Civil Appeal No. 7822/2024, decided on 18.07.2024] makes it clear that, at the pre-referral stage, the Court is not required to make a laborious enquiry with regard to any these issues. The jurisdiction of the Court is limited to a *prima facie* enquiry with regard to existence of the arbitration agreement.

6. In the present case, existence of the arbitration agreement being undisputed, the petition is liable to succeed.

7. The petition is therefore allowed and the disputes between the parties under the Supply Order dated 03.05.2016 are referred to arbitration of Mr. Kartik Nayar, Advocate [Tel: 9810426989]. The arbitration will be held under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi-110503 [“DIAC”], and will be governed by the Rules of DIAC, including as to the remuneration of the learned arbitrator.

8. The learned arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.

9. It is made clear that all rights and contentions of the parties are left



open for adjudication by the learned arbitrator.

10. The petition stands disposed of.

JULY 24, 2024
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PRATEEK JALAN, J