



2024:DHC:6743



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 1013/2024**AMERICAN EPAY SERVICES PRIVATE
LIMITED**

.....Petitioner

Through: Mr. Darpan Wadhwa, Sr. Adv.
with Mr. Vipin Tyagi, Ms. Preeti Singh and
Mr. Tanishq Juneja, Advs.

versus

ORBIT IN-TE-RIO

.....Respondent

Through: Mr. Ashim Shridhar and Ms.
Radhika Gupta, Advs.

CORAM:**HON'BLE MR. JUSTICE C. HARI SHANKAR****ORDER (ORAL)****02.09.2024**

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

2. The dispute arises in the context of a Fit-out Lease Agreement dated 28 November 2023, executed between the petitioner and the respondent. The Fit-out Lease Agreement envisages resolution of the disputes by arbitration and the relevant clause in that regard reads thus:

“ARTICLE 13 ARBITRATION

13.1 That all disputes, differences or disagreement arising out of, in connection with or in relation to the this Lease Deed, which cannot be amicably settled through discussions, within a period of 30 days, from the commencement of the discussions, (or such longer period

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the 1996 Act”, hereinafter

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as may be mutually agreed between the Parties) shall be referred to arbitration and the Arbitrators to be appointed one by Lessee and one by Lessor and then both of them will appoint the Umpire, under the provision of Arbitration and Conciliation Act of 1996 (as amended or modified from time to time) and including any amendments thereof. The Order of Umpire arbitrator shall be final and bearing on the parties. The arbitration cost shall be equally borne by the Parties. The Parties shall continue to perform such of their respective obligations that do not relate to the subject matter of the dispute, without prejudice to the final determination.

13.2 The venue of arbitration shall be New Delhi and the language of arbitration shall be English and the award shall be rendered in the English language.”

3. The petitioner addressed a notice to the respondent under Section 21 of the 1996 Act on 20 March 2024, seeking reference to the disputes between the parties to arbitration.

4. Mr. Ashim Shridhar, learned Counsel for the respondent has no objection to the matter being referred to arbitration. Learned Counsel by consent also agree that the matter may be referred to a sole arbitrator instead of a panel of three arbitrators as envisaged in the arbitration clause.

5. Mr. Ashim Shridhar submits that the respondent would also want to prefer counter claims in the region of ₹ 3-4 crores. Leave and liberty is granted to the respondent to do so before the arbitral tribunal which, as and when such counter claims are preferred, would deal with the counter claims in accordance with law.

6. The claims and counter claims in this matter are stated totally to be in the region of ₹ 5 to 5.5 crores.

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7. Accordingly, this court appoints Ms. Devika Mohan, Advocate (Tel: 9560044698) as the arbitrator to arbitrate on the dispute between the parties.
8. The arbitration shall take place under the aegis of the DIAC and shall abide by its rules and regulations.
9. The arbitrator shall be entitled to charge fees as per the schedule of fees maintained by the DIAC.
10. The learned arbitrator is also requested to file requisite disclosure under Section 12(2) of the 1996 Act within a week of entering on the reference.
11. All issues of fact and law are left open to be agitated before the learned arbitrator.
12. The petition stands allowed in the aforesaid terms.
13. Interim order(s) to continue subject to the outcome of further orders to be passed by the arbitrator.

C.HARI SHANKAR, J

SEPTEMBER 02, 2024/aky

Click here to check corrigendum, if any

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