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

+ **ARB.P. 1065/2023**

KONE ELEVATOR INDIA PVT LTD Petitioner

Through: Mr. Kunal Kher, Adv.

versus

CLOUD 9 PROJECTS PVT LTD Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

29.02.2024

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1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 for adjudication of disputes inter se the parties.
2. The parties have entered into an agreement dated 29.04.2011 whereby the respondent issued a work order to the petitioner for the supply, testing, and Commissioning of 22 Nos. elevators as per the specifications. The agreement contains the arbitration clause 18 with the venue of the arbitration at New Delhi.
3. Learned counsel for the petitioner submits that he has sent the summons to the respondent at the address given in the work order as well as the address on the MCA website. Learned counsel has also filed an affidavit that the respondents have duly been served through email on the email ID given in the MCA record. Learned counsel has also filed the MCA record. Learned counsel submits that the initial



five words were omitted for the purpose of maintaining the secrecy. However, learned counsel states at the bar that the email through which the summons have been sent is the same email which is mentioned in the MCA record.

4. Learned counsel also submits that in view of Section 3 of the Arbitration and Conciliation Act, the respondents may be deemed to be served.
5. The arbitration has duly been invoked vide notice dated 10.07.2023. The claim amount is around 18,00,000/-.
6. Considering the facts, the present petition is disposed of with the following directions:
 - i) The disputes between the parties under the said agreement are referred to the Sole Arbitrator.
 - ii) Mr. S. K. Luthra, Advocate, Mobile No.9811164604 is appointed as Sole arbitrator to adjudicate the disputes between the parties.
 - iii) 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 as per Schedule IV of the Arbitration and Conciliation Act, 1996.
 - iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
 - v) It is made clear that all the rights and contentions of the



parties, including as to the arbitrability of any of the 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.

- vi) The parties shall approach the learned arbitrator within two weeks from today.

7. The petition is disposed of in the above terms.

DINESH KUMAR SHARMA, J

FEBRUARY 29, 2024

Pallavi