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

+ **ARB.P. 1311/2022**

PANKAJ AGGARWAL

.....Petitioner

Through: Mr. Badal Dayal, Advocate.

versus

M/S AURA BUILDWELL PVT. LTD. & ORS.Respondents

Through: Mr. Shubhanshu Gupta & Ms.
Kirtika Goyal, Advocates for R-1
to 3.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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02.08.2024

1. The petitioner has filed this petition under Section 11 of the Arbitration and Conciliation Act, 1996 [“the Act”] for appointment of an arbitrator to adjudicate disputes between the parties under an agreement dated 14.10.2014 entitled “Investment Agreement” [“the Agreement”].
2. The parties to the Agreement are the petitioner and respondent No. 1. Respondent No. 1 is described as a subsidiary of M/s Aarcity Infrastructure Pvt. Ltd., which has been arrayed as respondent No. 4 in the petition. The Agreement has been signed by respondent No. 1, through its director – Mr. Rajender Parsad Mittal, who has been arrayed as respondent No. 2. Another director of respondent No. 1 has been arrayed as respondent No. 3. Admittedly, respondent Nos. 2, 3 and 4 are



not parties to the Agreement by name, and the Agreement has not been signed on their behalf.

3. Mr. Badal Dayal, learned counsel for the petitioner, however, states that the amount payable under the said Agreement was, in fact, paid by the petitioner to respondent No. 4.

4. Be that as it may, Corporate Insolvency Resolution Process [“CIRP”] proceedings have since been instituted against respondent No. 4, which is now under the control of an Insolvency Resolution Professional [“IRP”] and a moratorium is in place.

5. In these circumstances, Mr. Dayal seeks a reference to arbitration only against respondent No. 1, which was a signatory to the arbitration agreement. As far as respondent No. 4 is concerned, the petitioner seeks permission to lodge its claims before the IRP, and to take its remedies against the other respondents in such proceedings as may be available to it in law.

6. As far as respondent No. 1 is concerned, it is clearly a signatory to the Agreement dated 14.10.2014. The Agreement contains an arbitration clause [clause 12], which provides for resolution of disputes by a sole arbitrator and designates Delhi as the venue of the arbitration. This, for the present, is sufficient for the appointment of an arbitrator in respect of the disputes between the petitioner and respondent No. 1.

7. The petition is, therefore, disposed of with the direction that the disputes between the petitioner and respondent No. 1 are referred to the arbitration of Mr. Gautam Narayan, Advocate [Tel: 9811411735]. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.



8. The arbitration proceedings will be held under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi [“DIAC”], and will be governed by the Rules of DIAC, including as to remuneration of the learned Arbitrator.

9. It is made clear that all rights and contentions of the parties on maintainability, limitation and merits of any claims asserted by the parties before the learned Arbitrator are left open for adjudication by the learned Arbitrator.

10. As far as the other respondents are concerned, it is open to the petitioner to take his remedies against them as available in law, including by lodging a claim in the CIRP proceedings against respondent No. 4

PRATEEK JALAN, J

AUGUST 2, 2024

‘Bhupi’/