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

\+ ARB.P. 1252/2023

SWASTIK PIPE LTD .....Petitioner

Through: Mr. Sanjay Jain and Ms. Ankita Kedia, Advs.

versus

SUNIL KUMAR GOEL .....Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE C. HARI SHANKAR

<u>O R D E R (ORAL)</u>

% **19.09.2024**

1. This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996[1], seeking reference of the disputes between the parties to arbitration.

2. The claims of the petitioner against the respondent are relatable to two tax invoices, covering a total amount of ₹ 8.85 lakhs. Both these invoices envisage resolution of dispute by arbitration. The arbitration clause which is identical in both the invoices, reads thus:

> "2. All disputes, touching and/or concerning this bill, shall be, solely, resolved by an arbitrator duly appointed by the Hon'ble Delhi High Court under The Arbitration and Conciliation Act, 1996, as amended upto date or any repeal thereof. The seat of arbitration shall be Delhi and shall be solely and exclusively subject to Delhi Jurisdiction. The language of arbitration proceedings shall be English."

[1] "the 1996 Act", hereinafter

3. As the amounts covered by the aforesaid invoices remained unpaid, the petitioner raised a dispute and issued a notice to the respondent under Section 21 of the 1996 Act on 5 November 2022, seeking reference of the disputes to arbitration.

4. The notice was sent at the last known address of the respondent, as reflected in its GST[2] returns filed with the GST Authorities. However, it was returned with the postal remarks that the addressee had left and was not available at the said address.

5. The petitioner has, therefore, approached this Court under Section 11(6) of the 1996 Act, seeking reference of the disputes to arbitration.

6. The notice issued by this Court has also been returned with postal endorsement stating that the addressee was not available at the address contained in the memo of parties.

7. However, as the address is the last known address of the respondent, and corroborates with the address in the GST return filed by the respondent, the service may be deemed to have been effected.

8. That apart, in a Section 11 petition, the Court is only required to examine whether an arbitration agreement exists between the parties and whether the Section 11 petition has been filed within three years of the Section 21 notice.

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[2] Goods and Service Tax

9. Both these requirements stand satisfied in the present case.

10. Accordingly, this court appoints Mr. Amarjeet Singh, Advocate, (Tel: 9911111950) as the arbitrator to arbitrate on the disputes between the parties.

11. The learned arbitrator shall be entitled to charge fees as per the Fourth schedule of the 1996 Act.

12. 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.

13. All questions of fact and law remain open to be agitated in the arbitral proceedings.

14. The petition stands allowed in the aforesaid terms.

C. HARI SHANKAR, J

SEPTEMBER 19, 2024
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Click here to check corrigendum, if any