



2024:DHC:6991



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

+ **ARB.P. 1217/2024**

MR. YASHPAL CHAUDHARY

.....Petitioner

Through: Mr. Jitender Mehta and Mr.
Lalit Kumar, Advocates

versus

TELECOMMUNICATION CONSULTANTS

INDIA LTD

.....Respondent

Through: Ms. Rashmi Malhotra, Adv.

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

JUDGMENT (ORAL)

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09.09.2024

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

2. The disputes arise out of a tender, which was awarded to the petitioner by the respondent. The tender documents between the petitioner and the respondent envisage resolution of disputes by arbitration. The relevant clause reads as under :

“3.22 ARBITRATION

All disputes or differences whatsoever arising among the parties under and / or in connection with and / or in respect of this tender shall be referred to and decided by a sole arbitrator, who shall be appointed by the CMD, TCIL. The arbitration shall be conducted in accordance with Arbitration and Conciliation Act of 1996 and

Signature Not Verified¹ “the 1996 Act”, hereinafter

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the venue of the arbitration shall be in New Delhi.
The proceedings of arbitration shall be in English language.

In case any Contractor wants to take the dispute to a Court of law after arbitration award as aforesaid, it is clearly understood that only courts in Delhi shall have the jurisdiction.”

3. The dispute having arisen between the parties, the petitioner addressed a notice to the respondent under Section 21 of the 1996 Act on 29 November 2023, for appointment of an Arbitrator.

4. The respondent replied on 14 March 2024, denying any liability towards the petitioner. The parties thus having not been able to arrive at a consensus regarding arbitration, the petitioner has moved this petition under Section 11(6) of the 1996 Act.

5. Ms. Rashmi Malhotra, learned counsel for the respondent, submits that the claims are barred by time. However, in its recent decision in *SBI General Insurance Co Ltd v. Krish Spinning²*, the Supreme Court has held that the remit of a Section 11(6) Court is extremely limited. The Court is only to examine whether there exists an arbitration agreement between the parties and whether Section 11 (6) petition has been filed within three years of the Section 21 Notice.

6. The issue of whether the claims are barred by time has specifically been held by the Supreme Court to be referred to the Arbitral Tribunal.

7. Accordingly, the disputes stand referred to arbitration. This



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Court requests Mr. Dhritiman Bhattacharyya, Advocate (9818499377) to arbitrate on the disputes between the parties.

8. The learned arbitrator shall be entitled to charge fees in accordance with the Fourth schedule to 1996 Act.

9. 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 reference.

10. All issues of fact and law are left open for being agitated before the learned Arbitral Tribunal.

11. The petition stands allowed in the aforesaid terms.

C. HARI SHANKAR, J.

SEPTEMBER 9, 2024

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[Click here to check corrigendum, if any](#)

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