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

+ ARB.P. 1221/2024 & I.A. 35954/2024

GAIL (INDIA) LIMITED

.....Petitioner

Through: Mr. Kapil Sankhla and Mr.
Akhilesh Aggarwal, Advocates.

versus

PIONEER POWER LTD.

.....Respondent

Through: Mr. Umang Mehta, Advocate.

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+ ARB.P. 1222/2024 & I.A. 35956/2024

GAIL (INDIA) LIMITED

.....Petitioner

Through: Mr. Kapil Sankhla and Mr.
Akhilesh Aggarwal, Advocates.

versus

PIONEER POWER LTD.

.....Respondent

Through: Mr. Umang Mehta, Advocate. 30

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+ O.M.P.(I) (COMM.) 155/2024

GAIL (INDIA) LTD

.....Petitioner

Through: Mr. Kapil Sankhla and Mr.
Akhilesh Aggarwal, Advocates.

versus

PIONEER POWER LTD

.....Respondent

Through: Mr. Umang Mehta, Advocate.

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+ O.M.P.(I) (COMM.) 157/2024



GAIL (INDIA) LIMITED

.....Petitioner

Through: Mr. Kapil Sankhla and Mr.
Akhilesh Aggarwal, Advocates.

versus

PIONEER POWER LTD.

.....Respondent

Through: Mr. Umang Mehta, Advocate.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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14.08.2024

1. The petitioner has instituted these two petitions under Section 11 of the Arbitration and Conciliation Act, 1996 [“the Act”], and two petitions under Section 9 of the Act in respect of disputes between the parties under two Gas Sales Agreements dated 21.02.2011 and 05.01.2016 [“the Agreements”].
2. The Agreements concern supply of gas by the petitioner to the respondent. Both contain arbitration clauses, which provide for resolution of disputes by a sole arbitrator. New Delhi has been designated as venue of the arbitration in both the agreements.
3. Disputes having arisen between the parties, the petitioner invoked arbitration by separate notices dated 19.09.2023. Although the respondent replied to both the notices by a communication dated 17.10.2023, the parties were unable to agree on the reference to arbitration.
4. This has led to the institution of these petitions for appointment of the arbitrator by this Court, and for interim measures of protection in anticipation of the arbitral proceedings.



5. Pursuant to notice issued by this Court, Mr. Umang Mehta, learned counsel for the respondent, has taken instructions, and states that the respondent has no objection to the appointment of an arbitrator by the Court, leaving all rights and contentions of the parties open for adjudication by the learned arbitrator, including on the question of interim relief, if any.

6. Having heard learned counsel for the parties, I am of the view that this is the appropriate course of action.

7. The petitions are therefore disposed of, with consent of the learned counsel for the parties, with the following directions:

- A. The disputes between the parties, under the Sales Agreement dated 21.02.2011 and 05.01.2016, are referred to the arbitration of Hon'ble Mr. Justice G.S. Sistani, former Judge of this Court [Tel: 9871300034]. The arbitration will be held under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi-110503 ["DIAC"], and will be governed by the Rules of DIAC, including as to the remuneration of the learned Arbitrator.
- B. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.
- D. Learned counsel for the parties request that, although the claims of the petitioner arise under two different agreements, the agreements are similar in nature and are part of continuing transaction for sale of gas. The arbitration proceedings will, therefore, be treated as single proceedings for all purposes.
- E. In view of the fact that the arbitral tribunal has been constituted



today, the parties may approach the learned Arbitrator under Section 17 of the Act for any interim measures of protection, if so advised.

8. It is made clear that this Court has not examined the rights and contentions of the parties even on a *prima facie* basis, and all rights and contentions of the parties are reserved for adjudication before the learned Arbitrator.

9. The petition is disposed of, in terms of the above.

PRATEEK JALAN, J

AUGUST 14, 2024

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