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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision : 25.11.2024

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ARB.P. 1298/2024**M/S WILLUS INFRASTRUCTURE PVT LTD**

.....Petitioner

Through: Mr. Rajeev Kumar, Adv.

versus

**M/S ANIKAR INFRASTRUCTURE DEVELOPMENT COMPANY
PRIVATE LIMITED & ORS.**

.....Respondents

Through: Mr. Manish Jha, Mr. Aniket
Aggarwal, Advs.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (Oral)**

1. The present petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter '*the A&C Act*') seeks constitution of an Arbitral Tribunal to adjudicate the disputes between the parties.
2. The disputes between the parties have arisen in the context of a Purchase Order issued by the respondent, whereby the petitioner was engaged to supply and erect a prefabricated building at Plot No. 5, Sector-138, Noida.
3. The purchase order for supply of the prefabricated building was issued by the respondent on 14.08.2021 and the purchase order for erection of the same was issued on 01.09.2021. The purchase order dated 14.08.2021, which is admittedly annexed along with the purchase order for erection, contains an arbitration clause in the following terms:-

*"Governing Law**This Agreement shall be construed and enforced in accordance with and under the laws of the Government of India. Both parties agree that in case*



of any difference or dispute arising between the Seller and the Buyer will be resolved by mutual discussions and agreement. However, unresolved issues, if any, will be settled by arbitration as per the India Arbitration and Conciliation Act, and the venue of the arbitration will be Delhi.”

4. Learned counsel for the respondent, while strongly refuting the merits of the claims sought to be raised by the petitioner, does not dispute the existence of the arbitration agreement between the parties. He, however, submits that the agreement in question is deficiently stamped. Further, he submits that the respondent has significant counter-claims which it seeks to raise in the arbitral proceedings.
5. Considering that the scope of enquiry in the present proceedings is confined to ascertaining the existence of an arbitration agreement in terms of the judgement in ***SBI General Insurance Co. Ltd. v. Krish Spinning*** 2024 SCC OnLine 1754, there is no impediment in constituting an Arbitral Tribunal to adjudicate the disputes between the parties to the agreement. Further, any deficiency in stamping is not an impediment to constituting an Arbitral Tribunal as held by the Supreme Court in ***Interplay between Arbitration Agreements under the Arbitration & Conciliation Act, 1996 & the Indian Stamp Act, 1899, In re***, 2023 SCC OnLine SC 1666.
6. During the course of hearing, it is agreed by respective counsel for the parties that the arbitration shall be confined between the petitioner and the respondent and the Directors of the respondent shall not be made a party to the arbitral proceedings.
7. In the circumstances, Mr. Vineet Tayal (Mob No. 9810059479) is appointed as the Sole Arbitrator to adjudicate the disputes between the petitioner and the respondent no.1.
8. Needless to say, both the petitioner and the respondent shall be



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entitled to raise their respective claims/ counter-claims which shall be duly considered and decided by the learned Sole Arbitrator in accordance with law.

9. The parties shall also be entitled to raise objections, if any, as regards jurisdiction/arbitrability in respect of the claims/counter-claims, which shall be duly considered and decided by the learned Sole Arbitrator on merits.

10. It is further agreed by the parties that the arbitration shall take place under the aegis of and as per the Rules of Delhi International Arbitration Centre (DIAC). It is directed accordingly.

11. The petition stands disposed of in the above terms.

SACHIN DATTA, J

NOVEMBER 25, 2024/UK