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

+ **ARB.P. 1332/2023**

ONKAR NATH BHALLA & SONS CONTRACTORS PVT. LTD.

..... Petitioner

Through: Mr. Ajay Kumar Vali, Mr. Bhaskar Vali, Mr. Rajat Jain and Mr. Abhigaya, Advocates

versus

UNION OF INDIA

..... Respondent

Through: Mr. Anshuman, SPC with Mr. Priyanshu Ahluwalia, Advocate

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

ORDER

19.01.2024

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1. The present Petition under Section 11(5) of the Arbitration and Conciliation Act, 1996 has been filed on behalf of the petitioner seeking appointment of a Sole Arbitrator to adjudicate the disputes having arisen between the parties.
2. Issue notice.
3. Mr. Anshuman, learned Senior Panel Counsel for the respondent appearing on advance notice, accepts notice.
4. The petitioner was awarded the Tender No. CA NO CE WAC/AMB/T-21/2015-2016; Provision of OTM ACCN for Reccelite System, Tarmac and Weather Shelter at Air Force Station, Ambala *vide* Letter dated 05.06.2017 for a lump sum amount of Rs. 17,58,44,000/-.
5. According to the petitioner, the work under the Contract was



completed to the satisfaction of the respondent.

6. An intimation of completion of work was conveyed to the respondent *vide* Letter dated 19.10.2020 by the petitioner. The respondent thereafter *vide* Letter dated 05.12.2020 certified the work of the petitioner as on 02.12.2020.

7. Thereafter, the petitioner raised its final bill *vide* Letter dated 18.11.2021 to the respondent against which, the amount was bound to be paid by the respondent in respect of the undisputed portion of the bill by 18.08.2022 in compliance of the General Conditions of Contracts. However, the disputes arose between the parties.

8. The Notice of Invocation dated 07.08.2023 for arbitration in terms of GCC was ultimately issued for appointment of the Arbitrator, but the respondent *vide* Letter dated 18.09.2023 raised frivolous and false excuses for delay in payment, while completely ignoring and failing to respond to the said Notice of Invocation for arbitration.

9. Accordingly, in terms of Clause 70 of GCC, the arbitration has been invoked and the prayer is, therefore, made that a Sole Arbitrator may be appointed for adjudication of the disputes having arisen between the parties.

10. Mr. Anshuman, learned Senior Panel Counsel for the respondent, submits that pursuant to the Order dated 18.12.2023, he has received the instructions from the respondent and submits that he has no objection to the appointment of the Arbitrator, but he further submits that the Arbitrator may be appointed from the Panel of Arbitrators of the Ministry of Defence. A copy of the Panel of Arbitrators has been handed over in the Court today.

11. Learned counsel on behalf of the petitioner has taken an objection to the appointment of the Arbitrator from the panel of approved list of



Arbitrators of the Ministry of Defence.

12. **Submissions heard.**

13. In view of the submission made and the petitioner has raised the arbitrable disputes and there is a valid Arbitration Clause between the parties, the present petition is allowed, Justice Adarsh Kumar Goel, Former Judge, Supreme Court of India (Mobile No.9910213040) is hereby appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

14. The parties are at liberty to raise their respective objections before the Arbitrator.

15. The fees of the learned Arbitrator would be fixed in accordance with the IV Schedule to A&C Act, 1996 or as consented by the parties.

16. This is subject to the Arbitrator making necessary disclosure as under Section 12(1) of A & C Act, 1996 and not being ineligible under Section 12(5) of the A & C Act, 1996.

17. Learned counsels for the parties are directed to contact the learned Arbitrator within one week of being communicated a copy of this Order to them by the Registry of this Court.

18. Accordingly, the present petition is disposed of in the above terms.

NEENA BANSAL KRISHNA, J

JANUARY 19, 2024/PT