



2024:DHC:9633



\$~16

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

%

Date of Decision: 13.12.2024+ **ARB.P. 1421/2024****M/S MOD INTERIORS PVT LTD**

.....Petitioner

Through: Mr. Suresh Sharma, Mr. Dhruv
Sharma, Advs.

versus

M/S DELHI STATE INDUSTRIAL AND INFRASTRUCTURE**DEVELOPMENT CORPORATION LTD (DSI IDC)Respondent**Through: Mr. R.K. Dhawan (SC) for DSI IDC
along with Ms. Nisha Dhawan, Mr.
V.K. Teng, Ms. Shivani Taneja, Ms.
Pramila Bisht, Advs.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (ORAL)**

1. The present petition filed under section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred as 'the A&C Act') seeks appointment of a sole arbitrator to adjudicate the disputes between the parties.

2. The disputes between the parties have arisen in the context of a Work Order dated 01.11.2023 bearing letter no. DSI IDC/012/2023-24/IPD/950, awarded to the petitioner by the respondent for "*Engagement of Designer cum Contractor for designing, decorating the facade, Exterior & Interior of Delhi Pavilion and provision of related services in IITF- 2023 to be held from 14th November 2023 to 27th November 2023 at Pragati Maidan, New Delhi-11 0001*" at a tender cost of Rs.63,49,500/-.



3. As per the terms of the contract, the petitioner furnished performance guarantee in the prescribed form.
4. Admittedly, the following arbitration clause is applicable to the contract between the parties:

“11.0 ARBITRATION

11.1 *In the event of any dispute between the parties hereto arising out of or in any way touching or concerning this work disputes or differences shall be referred for adjudication through arbitration by the sole arbitrator. A panel of independent arbitrator will be given to the party by the DSIIDC with an advice to make any nomination of a sole arbitrator from wide based Panel comprising of experts, retired judges and executives.*

11.2 *That the reference to the Arbitration shall be deemed to be submission within the meaning of Arbitration and Conciliation (Amendment) Act, 2015 or any other statutory modification or reenactment thereof and the rules there under for the time being in force shall apply to such reference. The venue and seat of reference will be New Delhi alone.”*

5. The dispute between the parties have arisen on account of alleged baseless and unjustified deduction of Rs.3,17,475/- by the respondent as a penalty for late/delayed work.
6. It is the case of the petitioner that there was no delay in completion of work and on contrary the petitioner had received an intimation dated 26.11.2023 from the official of the respondent regarding presentation of an Award for the excellent work executed by the petitioner at IIFT-2023, Pragati Maidan, New Delhi.
7. It is further stated that the petitioner neither received a prior intimation nor a formal letter from the respondent as to the reasoning/justification for deduction of the aforesaid amount.
8. Disputes having arisen between the parties, the petitioner communicated its grievances to the concerned authorities through various



representations/letters. It is averred in the petition that the respondent failed to take any concrete steps for resolution of the disputes.

9. Since the dispute between the parties persisted, a demand notice dated 30.03.2024 was issued to the respondent followed by an application for Pre-Litigation Mediation before the District Legal Service Authority, Patiala House Courts, New Delhi. (DLSA). However, it is stated that the respondent neither responded to the demand notice nor appeared before the Mediation Centre for adjudication of the dispute.

10. Thus, the petitioner as per clause 11.1 of the agreement, issued a notice dated 02.07.2024 for invocation of arbitration. However, again the respondent failed to respond.

11. In the above circumstances, the petitioner has approached this Court, through the present petition, seeking the appointment of a sole arbitrator to adjudicate the dispute.

12. Learned counsel for the respondent does not dispute the existence of arbitration agreement. He accedes to the appointment of an independent Sole Arbitrator by this Court to adjudicate the disputes between the parties.

13. Since the existence of the arbitration clause is evident from a perusal of the contract, there is no impediment to constituting an arbitral tribunal for adjudicating the disputes between the parties, as mandated in terms of the judgments of the Supreme Court in ***SBI General Insurance Co. Ltd. v. Krish Spinning***, 2024 INSC 532 and ***Interplay between Arbitration Agreements under the Arbitration & Conciliation Act, 1996 & the Indian Stamp Act, 1899, In re***, 2023 SCC OnLine SC 1666.

14. Further, in terms of the judgments of the Supreme Court in ***Central Organisation for Railway Electrification v. ECI-SPIC-SMOMCML (JV)***



2024:DHC:9633



2024 SCC OnLine SC 3219, *Perkins Eastman Architects DPC v. HSCC (India) Ltd* (2020) 20 SCC 760, *TRF Limited v. Energo Engineering Projects Ltd*, (2017) 8 SCC 377 and *Bharat Broadband Network Limited v. United Telecoms Limited*, 2019 SCC OnLine SC 547, it is incumbent on this Court to appoint an independent sole arbitrator to adjudicate the disputes between the parties.

15. Accordingly, Ms. Pratiksha Sharma, Advocate (Mobile- +91 9310018500) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

16. The respondents shall be at liberty to raise preliminary objections as regards arbitrability/jurisdiction, if any, which shall be decided by the arbitrator, in accordance with law.

17. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosure as required under Section 12 of the A&C Act.

18. It is directed that the arbitration shall take place under the aegis of and as per the rules of the Delhi International Arbitration Centre (DIAC).

19. All rights and contentions of the parties in relation to the claims/counter claims are kept open, to be decided by the learned Sole Arbitrator on their merits, in accordance with law.

20. Needless to say, nothing in this order shall be construed as an expression of opinion of this court on the merits of the case.

21. The present petition stands disposed of in the above terms.

SACHIN DATTA, J

DECEMBER 13, 2024/sl