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

+ **ARB.P. 1491/2024**

RIDDHI SIDDHI ASSOCIATES

.....Petitioner

Through: **Mr. P. Roy Chaudhuri, Advocate**

versus

NATIONAL HIGHWAYS AUTHORITY OF INDIA.....Respondent

Through: **Mr. Kartikey Yadav with Mr. Adit Gupta, Advocates**

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

% **05.12.2024**

1. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 by the Petitioner seeking appointment of an Arbitrator to adjudicate upon the disputes which have arisen between the parties under the Agreement dated 15.03.2018. Clause 27 of the said Agreement, which is an arbitration clause, reads as under:

“27. Arbitration:

(a) All disputes and/or differences except those which are mentioned in the matters non-arbitral under Clause 26 above arising between the parties out of this Contract shall be settled by Arbitration under and in accordance with the provisions of the Arbitration and Conciliation Act, 1996. The Chairman of the Authority or his nominee shall be the sole Arbitrator. The award made and published in pursuance of such Arbitration proceedings shall be final and binding on both the parties.



(b) The proceedings of the Arbitration shall be held in English languages and shall be held at such place as may be decided by the Chairman of the Authority or his nominee. The award of the Arbitration shall be final and binding on both the parties to the Contract.

(c) Pending resolution of any dispute pursuant to Arbitration, under all circumstances the Contractor shall continue to remit the agreed installments of money to the Authority as prescribed in this Contract including when the dispute is about the amount to be remitted.

(d) The contract agreement shall be governed by the construed in accordance with the laws of India and the Courts at New Delhi shall have the exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the contract agreement.”

2. Material on record indicates that Respondent had circulated a tender for hiring a Contractor to collect user fees at Lalanagar Fee Plaza at KM 279.120 in the section from KM 245.00 to 317.389 on (Handia Allahabad – Rajatlab (Varanasi) Section on National Highway No.2 in the State of Uttar Pradesh. The Petitioner had placed bid for the tender and thereafter the Respondent after going through the tendering process, selected the Petitioner and accordingly, the Petitioner entered into an Agreement dated 15.03.2018 with the Respondent.

3. Material on record further indicates that since the Petitioner incurred substantial revenue loss due to the diversion of routes, the said losses were duly communicated to the authorities concerned by way of appropriate applications by invoking Force Majeure Clause. On 26.07.2024, Petitioner sent a legal notice to the Respondent for invoking arbitration proceedings



and for appointment of an Arbitrator for resolving the disputes and differences but no response has been received from the Respondent.

4. In view of the fact that disputes have arisen between the parties and there is an arbitration clause in the Agreement, this Court is inclined to appoint an Arbitrator to adjudicate upon the disputes between the parties.

5. Accordingly, Ms. Nandita Rao, Senior Advocate, (Mob. No.9999031918) is appointed as an Arbitrator to adjudicate upon the disputes between the Parties.

6. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.

7. 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.

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

9. Needless to say, nothing in this order shall be construed as an expression of this Court on the merits of the contentions of the parties.

10. The present petition stands disposed of in the above terms along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

DECEMBER 05, 2024

RJ