



2024:DHC:8829



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IN THE HIGH COURT OF DELHI AT NEW DELHI

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Date of Decision : 14.11.2024

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ARB.P. 1495/2024

M/S MANTARAV PVT LTD.

.....Petitioner

Through: Ms. Simran Mehrotra, Mr. Md. Adil
Alam, Ms. Mimansha Durgapal, Ms.
Shivali Singh, Advocates.

versus

M/S ELECTRIP PVT LTD.

.....Respondent

Through: None.

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 referred as 'the A&C Act') seeks appointment of a Sole Arbitrator to adjudicate the disputes between the parties. These disputes stem from a "Master Contract Service Agreement" dated 12.08.2023. As per the said agreement, the petitioner was to develop a custom website and hybrid application, along with annual maintenance services, for a total project value of ₹15,93,000 and an AMC of ₹3,27,000.
2. The arbitration clause in the Agreement between the parties is in the following terms: -

"14.6 Dispute Resolution and Arbitration: In the event of any dispute arising out of or in connection with this Agreement or any Work Order issued hereunder, the Parties will attempt in good faith to resolve such dispute through negotiations



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between them. Where the Parties are unable to resolve a dispute by means of negotiation, the dispute will be finally settled by arbitration conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996. Such disputes will be resolved by a sole arbitrator as mutually agreed and decided by the Parties. The seat and venue of arbitration will be New Delhi, India. The language of the arbitration will be English. Each Party will bear its own expenses in the arbitration and will share equally the costs of the arbitration; provided, however, that the arbitrator may, in his/her discretion, award costs and fees to the prevailing party. Judgment upon the award may be entered in any court having jurisdiction over the award or over the applicable party or its assets.”

3. The petitioner avers that the project was divided into five milestones, with payments linked to the completion of each milestone as per Clause 3.3. The Agreement also stipulated that payments be made before the commencement of each milestone, with delayed payments attracting interest under the MSME Act, 2006. The petitioner successfully completed Milestones 1, 2, and 3 and raised invoices for the corresponding payments. The respondent cleared the payment for Milestone 1. However the disputes between the parties surfaced when the respondent failed to pay for Milestones 2 and 3, amounting to ₹6,37,200/-, despite repeated reminders.
4. The petitioner issued multiple emails dated 25.11.2023, 20.12.2023, and 05.01.2024, notifying the respondent of the completion of milestones and requesting payment. However, the respondent failed to fulfil its obligations, despite acknowledging these correspondences.



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5. On 22.02.2024, during a meeting between the parties, the respondent assured the petitioner that the payments would be cleared by 07.03.2024. However, no payment was made.

6. Subsequently, the petitioner issued a legal notice dated 28.03.2024, demanding payment within seven days, but the respondent failed to comply. The petitioner then invoked the arbitration clause on 19.06.2024, nominating an arbitrator. Despite this, the respondent neither responded to the notice nor nominated an arbitrator within the statutory period.

7. In the present proceedings, notice was issued on 25.09.2024.

8. An affidavit of service has been filed wherein it has been brought out that the respondent has been duly served by post and also through WhatsApp and email. However, there is no appearance on behalf of the respondent.

9. Since the existence of arbitration clause is evident from a perusal of the agreement, there is no impediment in appointing an independent Sole Arbitrator for adjudicating the disputes between the parties, as prayed for, and as mandated in terms of the judgments of the Supreme Court in ***In Re: Interplay between Arbitration Agreement under the Arbitration and Conciliation Act, 1996 and the Indian Stamp Act, 1899*** bearing the Curative Petition (C) No. 44/2023 decided on 14.12.2023, and ***SBI General Insurance Co. Ltd. v. Krish Spinning, 2024 INSC 532***.

10. Accordingly, Ms. Akriti Arora, Advocate (Mobile - +91 9653270258), is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.



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11. The respondent shall be entitled to raise preliminary objections as regards jurisdiction/arbitrability, which shall be decided by the learned arbitrator, in accordance with law.
12. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosures as required under Section 12 of the A&C Act.
13. The learned Sole Arbitrator shall be entitled to fee in accordance with Fourth Schedule to the A&C Act; or as may otherwise be agreed to between the parties and the learned Sole Arbitrator.
14. The parties shall share the arbitrator's fee and arbitral costs, equally.
15. 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.
16. Needless to say, nothing in this order shall be construed as an expression of this court on the merits of the case.
17. The present petition stands disposed of in the above terms.

SACHIN DATTA, J

NOVEMBER 14, 2024/sv