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

+ **ARB.P. 1771/2024**

S C WADHWA AND SONS HUFPetitioner

Through: **Mr. Ujjawal Malhotra, Advocate**

versus

GTL INFRASTRUCTURE LTDRespondent

Through: **Mr. Gautam Mishra, Advocate**

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

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19.12.2024

1. The present Petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 ('the Act of 1996') seeking appointment of an Arbitrator in terms of the License Agreement dated 11.06.2009 executed between the parties. It is stated that the said License Agreement dated 11.06.2009 contains an Arbitration Agreement at Clause 11, which reads as under:

“In the event of any dispute arising by and between the parties hereto. the same shall be amicably resolved by Conciliation, failing which by Arbitration conducted by a sole arbitrator duly nominated by the Licensee, in accordance with the provisions of the Arbitration & Conciliation Act, 1996 (as amended) and in case of death refusal neglect or incapability of the appointed arbitrator to act as an Arbitrator then the same shall be referred to the Sole Arbitrator to be appointed by the Licensee, whose decision shall be binding upon both the parties. The venue of the Arbitration shall be Delhi. The decision of the arbitrator shall be final and binding on the parties. All disputes shall be subject to the jurisdiction of Delhi courts. The governing law shall be laws of India.”

(Emphasis supplied)



2. It is stated that the License Agreement dated 11.06.2009 was originally signed by 'M/s Aircel Ltd.', which has since ceased to exist. It is stated that the Respondent herein has taken over the rights and liabilities of the said 'M/s Aircel Ltd.', under the License Agreement dated 11.06.2009.

3. It is stated that disputes arose between the parties in respect of the aforesaid agreement and the license fee payments which were to be made under Clause 6 of the License Agreement dated 11.06.2009 were stopped by the Respondent since November, 2017. It is stated that the Petitioner has terminated the License Agreement dated 11.06.2009 vide notice dated 20.04.2022.

4. It is stated that the Petitioner invoked the arbitration agreement vide invocation notice dated 06.08.2024. It is stated that the said notice was replied to on 14.08.2024 by the Respondent and consent for appointment of Arbitrator was not given. Therefore, the present petition was filed by the Petitioner herein.

5. Notice in the present petition was issued on 12.11.2024 and the Respondent was directed to file its reply, which has not been filed by the Respondent.

6. Mr. Gautam Mishra, learned counsel has entered appearance on behalf of the Respondent and submits that he has no objection to the present petition being allowed.

Learned counsel for the Respondent is directed to file his vakalatnama within one (1) week.

7. Learned counsel for the Petitioner states that the claimed amount is Rs. 27,61,286/- approximately.



8. The parties jointly state that they have no objection if the arbitration is conducted under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi ('DIAC')

9. In view of the aforesaid submission considering the fact that the arbitration agreement is admitted and parties are ad-idem with respect to the appointment of a Sole Arbitrator, the present petition is allowed with the following directions:

i. Mr. Tushar Singh, Advocate. (D/3720/2010) (M. No. 9811634530) (email: ilc.tusharsingh@gmail.com) is appointed as the Sole Arbitrator to adjudicate the dispute between the parties.

ii. The Sole Arbitrator is requested to furnish a declaration in terms of the Section 12 of the Act of 1996 prior to entering into the reference.

10. The arbitration will be held under the aegis of DIAC and the Rules of DIAC will be applicable to the arbitral proceedings. The remuneration of the learned Sole Arbitrator shall be in terms of Schedule IV of the Act as amended by the DIAC Rules.

11. It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claims/counter-claims, any other preliminary objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.

12. Nothing stated in this order shall be construed as an opinion on the disputes between the parties.

13. With the aforesaid directions, the petition stands disposed of.

14. The registry is directed to send a copy of this order to DIAC and the Sole Arbitrator through email. The DIAC is directed to hold a preliminary



meeting in the presence of Sole Arbitrator on 21.01.2025 at 04:00 PM.

15. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J
DECEMBER 19, 2024/sk/hp

Click here to check corrigendum, if any