

IN THE HIGH COURT AT CALCUTTA
COMMERCIAL DIVISION
ORIGINAL SIDE

AP-COM/186/2025

BYGGING INDIA LTD.
VERSUS
BHARAT HEAVY ELECTRICALS LIMITED

BEFORE :

The Hon'ble JUSTICE SHAMPA SARKAR

Date: 12th March, 2025.

Appearance:

Mr. S. K. Maniktala, Adv.

Mr. Avishek Guha, Adv.

Ms. Shilpa Das, Adv.

Mr. Ankush Majumdar, Adv.

. . . for the petitioner.

Mr. Rohit Das, Adv.

Ms. Kishwar Rahman, Adv.

Mr. Vishesh Pandey, Adv.

. . . . for the respondent.

1. This is an application for appointment of a learned Arbitrator, to settle the disputes which have arisen out of a contract dated April 20, 2016 which took effect from January 27, 2015. The same was entered into between the parties, with regard to certain works which were to be performed by the petitioner.
2. The petitioner has several allegations with regard to prolongation of the contract period, non-payment of dues and defaults and breaches committed by the respondent.
3. Learned Advocate for the respondent, denies the claims and submits that most of the claims are either time barred or inadmissible. It is

further submitted that the last RA bill is under process and hence, there is no dispute with regard to the last RA bill.

4. Having gone through the records and the position as of today, it appears that the amicable settlement failed. Relegating the parties to further rounds of discussions and deliberations on the same issue, would be a wastage of time. Thus, when there is an arbitration clause, this Court is of the view that all the disputes and differences between the parties, including the objections raised by the respondent with regard to the admissibility of the claims, should be decided by the learned Arbitrator, in terms of the dispute resolution clause which is quoted below :

“2.21 ARBITRATION & CONCILIATION

2.21.1 In case amicable settlement is not reached in the event of any dispute or difference arising out of the execution of the Contract or the respective rights and liabilities of the parties or in relation to interpretation of any provision by the Contractor in any manner touching upon the Contract, such dispute or difference shall (except as to any matters, the decision of which is specifically provided for therein) be referred to the sole arbitration of the arbitrator appointed by BHEL/In-charge (Region).

The award of the Arbitrator shall be binding upon the parties to the dispute.

Subject as aforesaid, the provisions of the Arbitration and Conciliation Act, 1996 or statutory modifications or re-enactments thereof and the rules made there under and for the time being in force shall apply to the arbitration proceedings under this clause.

The venue of the arbitration shall be the place from which the contract is issued or such other place as the Arbitrator at his discretion may determine.

2.21.2 In case of Contract with Public Sector Enterprise (PSE) or a Government Department, the following shall be applicable:

In the event of any dispute or difference relating to the interpretation and application of the provisions of the Contract, such dispute or difference shall be referred to by either party to the arbitration of one of the arbitrators in the department of public enterprises. The award of the arbitrator shall be binding upon the parties to the dispute, provided, however, any party aggrieved by such award may make further reference for setting aside or revision of the award to the Law Secretary, Department of Legal Affairs, Ministry of Law and Justice, Government of India. Upon such reference the dispute shall be decided by the Law Secretary or the Special Secretary or Additional Secretary when so authorized by the Law Secretary, whose decision shall bind the parties hereto finally and conclusively.

2.21.3 The cost of arbitration shall be borne equally by the parties.

2.21.4 Work under the contract shall be continued during the arbitration proceedings.”

5. Accordingly, the application is disposed of by appointing Justice Tapan Kumar Dutt, a former Judge of this Court, as the learned Arbitrator, to arbitrate upon the disputes between the parties. This order is subject to compliance of Section 12 of the Arbitration and Conciliation Act, 1996.
6. The learned Arbitrator shall fix his remuneration in terms of the Schedule of the Act.

7. AP-COM/186/2025 is, accordingly, disposed of.

(SHAMPA SARKAR, J.)

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