



2025:DHC:3159



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

+ **ARB.P. 114/2025**

Date of Decision: **21.04.2025**

IN THE MATTER OF:

**AAR PEE REFRIGERATION AND AIRCONDITIONING
THROUGH ITS PROPRIETOR SH. ANJUMAN AGNIHOTRI**

.....Petitioner

Through: Mr. Rahul Rai, Mr. Shekhar Mehala
and Mr. A.R. Aditya, Advs.

versus

**CENTRAL PUBLIC WORKS DEPARTMENT THROUGH THE
OFFICE OF EXECUTIVE ENGINEER (E)**Respondent

Through: Mr. Siddhartha Shankar Ray, CGSC
with Mr. Mr. Suryadeep Singh, Adv.
with Mr. N. K. Rajak, AE in person

HON'BLE MR. JUSTICE PURUSHAINDRA KUMAR KAURAV

JUDGEMENT

PURUSHAINDRA KUMAR KAURAV, J. (ORAL)

1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, by the petitioner, seeking appointment of an Arbitrator to adjudicate upon the disputes arising out of the General Clause of Contract.

2. Learned counsel for the petitioner submits that a letter of acceptance was issued in favour of the petitioner on 22.03.2021 for the work titled "RMO 3x110 TR Capacity Air Conditioning Plant installed for BSF, DCPW, DFSS at CGO Complex, Lodhi Road, New Delhi (SH: Operation of



AC Plant)”. According to him, the petitioner completed the work on 26.08.2022 and raised a bill for Rs.12,08,670/-. However, since the respondent failed to make the payment, the petitioner issued a notice requesting the appointment of a Dispute Redressal Committee (DRC).

3. He further submits that DRC subsequently passed an adverse order directing the petitioner to pay Rs.13,51,815/- to the respondent. In response, the petitioner sent a notice to the Chief Engineer, NDZ-1, and SE, DC-8, seeking the appointment of an Arbitrator. The respondent, however, in a letter dated 16.01.2024, stated that there is no provision for reconstitution of DRC.

4. The petitioner then appears to have approached the ADG for the appointment of an Arbitrator. Learned counsel for the petitioner argues that the petitioner is not liable to pay any amount to the respondent and, on the contrary, is entitled to receive a certain sum. It is contended that Clause 25 of the General Conditions of Contract, which is binding on both parties, provides for arbitration.

5. Given that a dispute has arisen regarding the alleged payment by the petitioner to the respondent, and considering that an order has already been passed by the DRC in favour of the respondent, the petitioner submits that it is appropriate to appoint an Arbitrator to adjudicate the matter comprehensively.

6. The Court takes note of Clause 25 of the General Clause of Contract (GCC), which reads as under:-

“Except where otherwise provided in the contract, all questions and disputes relating to the meaning of the specifications, design, drawings and instructions here-in before mentioned and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or



relating to the contract, designs, drawings, specifications, estimates, instructions, orders or these conditions or otherwise concerning the works or the execution or failure to execute the same whether arising during the progress of the work or after the cancellation, termination, completion or abandonment thereof shall be dealt with as mentioned hereinafter:-

- i. *If the contractor considers any work demanded of him to be outside the requirements of the contract, or disputes any drawings, record or decision, given in writing by the Engineer-in-Charge or if the Engineer in Charge considers any act or decision of the contractor on any matter in connection with or arising out of the contract or carrying out of the work, to be unacceptable and is disputed, such party shall promptly within 15 days of the arising of the disputes request the Chief Engineer/ CPM, or where there is no Chief Engineer/CPM, request the Additional Director General/Special Director General, who shall refer the disputes to Dispute Redressal Committee (DRC) within 15 days along with a list of disputes with amounts claimed if any in respect of each such dispute. The Dispute Redressal Committee (DRC) give its decision within a period of 60 days extendable by 30 days by consent of both the parties from the receipt of reference from CE/CPM/ADG/SDG. The constitution of Dispute Redressal Committee (DRC) shall be as indicated in Schedule ' F'. Provided that no party shall be represented before the Dispute Redressal Committee by an advocate/legal counsel etc.*

The DRC will submit its decision to the concerned ADG/SDG for acceptance ADG/ SDG in a time limit of 30 days from receipt of DRC

decision will convey acceptance or otherwise on the said decision .If the Dispute Redressal Committee (DRC) fails to give its decision within the aforesaid period or the ADG/SDG fails to give his decision

in the aforesaid time limit or any party is dissatisfied with the decision of Dispute Redressal Committee (DRC)/ ADG/ SDG then either party may within a period of 30 days from the receipt of the decision of Dispute Redressal Committee (DRC)/ ADG/SDG or on expiry of aforesaid the time limits available to DRC/ ADG/SDG ,may give notice to the Chief Engineer/CPM, CPWD, in charge of the work or if there be no Chief Engineer/ CPM,, the Additional Director General / Special Director General concerned or if there be no Additional Director General/ Special Director General, the Director General, CPWD for appointment of arbitrator on prescribed proforma as per Appendix XVII under intimation to the other party



It is a term of contract that each party invoking arbitration must exhaust the aforesaid mechanism of settlement of claims/disputes prior to invoking arbitration

The CE/ADG/ SDG /DG shall in such case appoint the sole arbitrator or one of the three arbitrators as the case may be within 30 days of receipt of such a request and refer such disputes to arbitration. Wherever the Arbitral Tribunal consists of three Arbitrators, the contractor shall appoint one arbitrator within 30 days of making request for arbitration or of receipt of request by Engineer-in-charge to CE/ADG/ SDG /DG for appointment of arbitrator, as the case may be, and two appointed arbitrators shall appoint the third arbitrator who shall act as the Presiding Arbitrator. In the event of

- a) A party fails to appoint the second Arbitrator, or*
- b) The two appointed Arbitrators fail to appoint the Presiding Arbitrator, then the Director General, CPWD shall appoint the second or Presiding Arbitrator as the case may be.*

- ii. Disputes or difference shall be referred for adjudication through arbitration by a Tribunal having sole arbitrator where Tendered amount is Rs. 500 Crore or less. Where Tendered Value is more than Rs.500 Crore, Tribunal shall consist of three Arbitrators as above. The requirements of the Arbitration and Conciliation Act, 1996 (26 of 1996) and any further statutory modifications or re-enactment thereof and the rules made there under and for the time being in force shall be applicable.*

It is a term of this contract that the party invoking arbitration shall give a list of disputes with amounts claimed, if any, in respect of each such dispute along with the notice for appointment of arbitrator and giving reference to the decision of the ADG/ SDG on the finding/recommendation of DRC.

It is also a term of this contract that in case of sole arbitrator, the arbitrator and in case of tribunal any member of the Arbitration Tribunal shall be a Graduate Engineer with experience in handling public works engineering contracts at a level not lower than Chief Engineer (Joint Secretary level of Government of India) retired from Govt. Service or working in any other Govt. Department/ Ministry other than CPWD. This shall be treated as a mandatory qualification to be appointed as arbitrator.

Parties, before or at the time of appointment of Arbitral Tribunal may agree in writing for fast track arbitration as per the Arbitration and Conciliation Act, 1996 (26 of 1996) as amended in 2015.

Subject to provision in the Arbitration and Conciliation Act, 1996 (26 of 1996) as amended in 2015 whereby the counter claims if any can be directly filed before the arbitrator without any requirement



of reference by the appointing authority. The arbitrator shall adjudicate on only such disputes as are referred to him by the appointing authority and give separate award against each dispute and claim referred to him and in all cases where the total amount of the claims by any party exceeds Rs. 1,00,000/-, the arbitrator shall give reasons for the award.

It is also a term of the contract that if any fees are payable to the arbitrator, these shall be paid as per the Act.

The place of arbitration shall be as mentioned in Schedule F. In case there is no mention of place of arbitration, the arbitral tribunal shall determine the place of arbitration.

The venue of the arbitration shall be such place as may be fixed by the Arbitral Tribunal in consultation with both the parties. Failing any such agreement, then the Arbitral Tribunal shall decide the venue.”

7. The aforesaid submissions are opposed by learned counsel for the respondent and he has already filed the reply.

8. It is however, seen that the dispute is amenable to be adjudicated by the arbitrator. It is explicitly evident that where there exists an arbitration clause in the event any dispute arises between the parties, there is no impediment in appointing an independent Sole Arbitrator for adjudicating the same. Reference can be made to the decisions of the Supreme Court in ***Perkins Eastman Architects DPC v. HSCC (India) Ltd.***,¹ ***TRF Limited v. Energo Engineering Projects Ltd.***,² ***Bharat Broadband Network Limited v. United Telecoms Limited.***,³ and ***Interplay between Arbitration Agreements under the Arbitration & Conciliation Act, 1996 & the Indian Stamp Act, 1899, In re***⁴.

9. Having considered the nature of the grievances raised by the parties, and in view of the fact that Clause 25 of the GCC, which is binding on both

¹ (2020) 20 SCC 760

² (2017) 8 SCC 377

³ 2019 SCC OnLine SC 547



parties, contains an arbitration clause, this Court finds it appropriate and expedient to appoint a sole Arbitrator to adjudicate the said disputes.

10. Accordingly, Ms. Kirti Mewar, Advocate (Mobile No: +91-7204073750; Email: kirti.mewar06@gmail.com) is hereby appointed as the learned Sole Arbitrator.

11. 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.

12. The learned arbitrator is also requested to file the requisite disclosure under Section 12 (2) of the Act within a week of entering on reference.

13. The registry is directed to send a receipt of this order to the learned arbitrator through all permissible modes, including through e-mail.

14. 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.

15. The petition stands disposed of in the aforesaid terms.

PURUSHAINdra KUMAR KAURAV, J

APRIL 21, 2025/DPA/SPH

Click here to check corrigendum, if any

⁴ 2023 SCC OnLine SC 1666.