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

+ **ARB.P. 435/2025**

**M/S NEELKANTHAM SYSTEMS PRIVATE LIMITED**

.....Petitioner

Through: Mr. Raj Kamal Singh, Advocate

versus

**M/S NTPC LIMITED & ORS**

.....Respondents

Through: Mr. Anish Gupta and Ms. Raina  
Anand, Advocates.

**CORAM:**

**HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD**

**ORDER**

% **07.03.2025**

**I.A. 6146/2025 (Exemption)**

Allowed, subject to all just exceptions.

**ARB.P. 435/2025 & I.A. 6147/2025**

1. The Petitioner has approached this Court under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator to adjudicate the disputes between the parties.
2. In response to a Notice Inviting Tender (NIT) issued by the Respondents for Horticulture, Landscaping, Civil Works, Art & Sculptural installations and other facilities in Phase -2 of the Eco Park at NTPC Badarpur, New Delhi (Package 2A), the Petitioner herein had submitted its bid for the said tender. The Petitioner's bid was accepted and a Letter of Intent (LOI) was issued in favour of the Petitioner on 21.12.2021. Disputes have arisen between the parties in the tender. Efforts to settle the disputes



between the parties have failed. A notice under Section 21 of the arbitration and Conciliation Act, 1996 invoking arbitration was issued by the Petitioner to the Respondents on 10.10.2024.

3. Clause 7.3.1 of the General Conditions of Contract (GCC) which contains an arbitration clause reads as under:

*"7.3.1 If the process of mutual consultation and/or ESC fails to arrive at a settlement between the parties as mentioned at GCC Sub-Clauses 7.1 & 7.2 above, Employer or the Contractor may, within Thirty (30) days of such failure, give notice to the other party, with a copy for information to the ESC (as applicable), of its intention to commence arbitration, as hereinafter provided, as to the matter in dispute, and no arbitration in respect of this matter may be commenced unless such notice is given. The mechanism of settling the disputes through arbitration shall be applicable only in cases where the disputed amount (i.e. total amount of Claims excluding claims of interest) does not exceed Rs. 25 crores. In case the disputed amount exceeds Rs. 25 Crores, the parties shall be within their rights to take recourse to remedies as may be available to them under the applicable laws other than Arbitration after prior intimation to the other party. There shall be no arbitration where the claim amount is only up to Rs. 5 lakhs.*

*The parties at the time of invocation of arbitration shall submit all the details of the claims and the counter-claims including the Heads/Sub-heads of the Claims/Counter-Claims and the documents relied upon by the parties for their respective claims and counter-claims. The parties shall not file any documents/details of the claims and counter-claims thereafter.*

*The claims and the counter claims raised by the parties at the time of invocation of the arbitration shall be*



*final and binding on the parties and no further change shall be allowed in the same at any stage during arbitration under any circumstances whatsoever.*

*The parties to the contract shall invoke arbitration within Six months from the date of completion of the execution of work under the contract or the termination of the contract as the case may be and the parties shall not invoke arbitration later on after expiry of the said period of six months. The parties shall not invoke arbitration other than in the case of completion of execution of work or the termination of the contract as mentioned above.*

*Notwithstanding the above, in case of disputes with Indian Contractor who is a Central Government Department /Enterprise /organisation or a State Level Public Enterprise (SLPE), the aforesaid limit of Rs 25 crores shall not be applicable and arbitration proceeding may be commenced irrespective of the amount involved in dispute if the dispute could not be resolved through Conciliation as brought out at GCC Sub Clause 7.2 above."*

4. The Petitioner has appointed its nominee Arbitrator vide a letter dated 27.11.2024. The Respondents have also appointed their nominee Arbitrator vide a letter dated 12.12.2024. However, it is stated that the nominee Arbitrators have failed to appoint the Presiding Arbitrator and, therefore, the Petitioner has approached this Court by filing the present petition seeking appointment of the Presiding Arbitrator.
5. Learned Counsel for the Respondents has appeared on advance notice.
6. Both sides have agreed to the appointment of Justice Hrishikesh Roy, Former Judge of the Supreme Court of India to be the Presiding Arbitrator.



7. Accordingly, Justice Hrishikesh Roy, Former Judge of the Supreme Court of India (Mob. No. 9435040196) is appointed as the Sole Arbitrator to adjudicate upon the disputes between the parties.
8. 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.
9. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the Arbitration & Conciliation Act within a week of entering on reference.
10. 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.
11. 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.
12. The present petition stands disposed of in the above terms along with pending application(s), if any.

**SUBRAMONIUM PRASAD, J**

**MARCH 7, 2025**

*RJ*