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

+ **ARB.P. 1044/2025**

M/S CASPIAN INDIA ENGICON PVT. LTD.

.....Petitioner

Through: Mr. Kumar Prateek, Mr. Aman
Ashesh and Mr. Satyarth Balajee Sinha,
Advocates.

versus

M/S STERLITE TECHNOLOGIES LIMITED

.....Respondent

Through: Mr. Lalit Besoya, Ms. Mehak Kalra
and Ms. Bhuvika Khatri, Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

% **16.09.2025**

1. This petition is filed on behalf of the Petitioner under Section 11(6) of Arbitration and Conciliation Act, 1996 ('1996 Act') seeking appointment of a Sole Arbitrator to adjudicate the disputes between the parties.
2. Disputes, in the present petition, emanate from a contractual relationship arising out of two Purchase Orders (POs) dated 24.06.2019 and 05.09.2019 for the work of laying GP connectivity optical fibres, supplemented by a Service Agreement dated 26.06.2019. Both POs incorporate arbitration clauses and the Service Agreement also separately contains Arbitration Clause 7.10, designating seat/venue of arbitration as New Delhi.
3. Petitioner avers that after the work was executed, it raised invoices towards retention money in respect of the two POs, however, Respondent did not clear the outstanding dues, despite requesting the Petitioner to



facilitate and reconcile the accounts for a full and final settlement, which the Petitioner did. Respondent also raised a counter claim of Rs. 56,73,091/- after setting off the amount due to the Petitioner. Notice invoking arbitration was sent by the Petitioner on 22.09.2024 as per Clause 7.10 of Service Agreement to the Respondent, however, there was no response and this petition was filed.

4. Reply has been filed by the Respondent and relying on it learned counsel raises twofold objections to the appointment of the Arbitrator. The first objection is that Petitioner has concealed the material fact that the POs, on which it places reliance in the petition, were superseded by subsequent POs dated 26.02.2021 and 29.12.2021 and deserves to be non-suited on this ground alone. The second objection is that this Court lacks the territorial jurisdiction to entertain this petition since under the amended POs, Courts at Mumbai have jurisdiction to appoint the Arbitrator, in light of the arbitration clause providing that arbitration proceedings shall be held in Mumbai.

5. Learned counsel for the Petitioner responding to the two objections contends that there is no concealment and the POs placed on the Petitioner have been correctly relied upon. The two POs referred to in the reply were issued unilaterally and without the consent or even knowledge of the Petitioner. It is urged that the POs filed with the petition were entered into after due discussions and deliberations and are signed by the Petitioner. The Service Agreement executed between the parties as a follow up of these POs is duly stamped and was shared by the Respondent with the Petitioner vide e-mail dated 28.06.2019. The terms of PO dated 24.06.2019 were ratified and incorporated in the Service Agreement. Plea of the Respondent that these POs were rescinded/amended is completely false and this is evident



from Clause 7.5 of the Service Agreement, which provides that this would be the entire Agreement between the parties and shall supersede any prior agreement or understanding as also that all amendments to the Agreement shall be in writing and signed by both the parties. Petitioner has never signed any amendment to the POs or the Service Agreement. Hence, there is no concealment of any material fact.

6. It is further urged that since the alleged POs dated 26.02.2021 and 29.12.2021 were never executed or signed between the parties, the arbitration clause referred to by the Respondent is irrelevant and going by Arbitration Clause 7.10 of the Service Agreement, which designates seat and venue of arbitration as New Delhi and also Clause 23 of POs dated 24.06.2019 and 05.09.2019, which provide that Delhi Courts shall have exclusive jurisdiction in relation to the POs, this Court has the territorial jurisdiction to entertain this petition.

7. Heard counsels for the parties and examined their submissions.

8. Insofar as the first objection of concealment is concerned, in my view, the same merits rejection. Petitioner has taken a categorical stand and is able to substantiate that the POs executed between the parties on 24.06.2019 and 05.09.2019 are valid and subsisting. These documents bear the signatures of the Petitioner unlike the alleged POs dated 26.02.2021 and 29.12.2021, relied upon by the Respondent. Petitioner has succeeded in demonstrating that Service Agreement executed between the parties on 26.06.2019 incorporated the details of PO dated 05.09.2019 and its draft was shared and deliberated upon between the parties, before signing. It is clear that the plea of the Respondent that POs dated 26.02.2021 and 29.12.2021 superseded the earlier POs, is only an afterthought. No material has been placed on record,



which shows any deliberations or signatures of the Petitioner on these documents. Significantly, when the Respondent sent the reply dated 21.10.2024 to the notice invoking arbitration issued by the Petitioner, it only referred to PO dated 05.09.2019. There was no reference to the alleged POs dated 26.02.2021 and 29.12.2021 and in fact referring to the disputes raised by the Petitioner in the context of the two POs dated 24.06.2019 and 05.09.2019, Respondent opposed the names of Arbitrators proposed by the Petitioner and alternatively, suggested three names for appointment. In light of these facts and circumstances, it is evident that POs dated 26.02.2021 and 29.12.2021 were never executed and therefore, the question of supersession of POs dated 24.06.2019 and 05.09.2019 relied upon by the Petitioner, does not arise. Petitioner has placed reliance on valid POs and cannot be accused of concealing material facts which did not exist in his knowledge.

9. Be it noted that the stand of the Respondent that POs dated 24.06.2019 and 05.09.2019 were superseded is also belied from a reading of Clause 7.5 of the Service Agreement, which provides that any amendment to the Agreement shall be in writing and signed by both the parties. Respondent is unable to demonstrate that Petitioner signed any written document, which could be construed as an amendment to the Service Agreement, which was requisite for amendment. Thus, the POs were never superseded. Clause 7.5 is extracted hereunder:-

***“Entire Agreement:** This Agreement supersedes any prior agreements or understandings (whether oral or written) relating to subject matter which stand automatically terminated as of the Execution Date. This Agreement may be executed in one or more counterparts each of which shall be deemed to be an original. All amendments to this Agreement shall be in writing and signed by both the Parties. Each and every obligation under this Agreement shall be treated as a separate obligation and shall be severally enforceable as such and in the event of any obligation or*



obligations being or becoming unenforceable in whole or in part. Each Party shall bear its respective costs and expenses in relation to the negotiation, execution and delivery of this Agreement.”

10. There is also no merit in the objection that this Court lacks the territorial jurisdiction to entertain this petition. PO dated 05.09.2019 contains an Arbitration Clause 23 which provides that Courts of competent jurisdiction in New Delhi shall have exclusive jurisdiction in relation to this PO. Further Clause 7.10 of the Service Agreement designates New Delhi as a seat and venue and thus this Court has the territorial jurisdiction to entertain this petition. Arbitration Clauses 23 and 7.10 are extracted hereunder for ready reference:-

Clause 23 of PO dated 05.09.2019

“23. Any dispute arising out of or in relation to this PO shall be subject referred to arbitration by an arbitrator mutually appointed by Sterlite and Seller. Arbitration shall be conducted in accordance with the Arbitration and Conciliation Act, 1996 and the rules framed thereunder, as amended from time to time. The courts of competent jurisdiction in New Delhi shall have exclusive jurisdiction in relation to this PO.”

Clause 7.10 of Service Agreement

“7.10 - Governing Law and Dispute Resolution: This Agreement shall be governed by and construed in accordance with the laws of India. If any dispute arises in relation to or in connection with this Agreement or any Purchase Order including in respect of the validity, interpretation, implementation or alleged breach of any provision of this Agreement or any Purchase Order (a "Dispute") between the Parties ("Disputing Parties"), the Disputing Parties shall attempt to first resolve such dispute or claim through discussions between senior executives of the Disputing Parties. If the Dispute is still not resolved through discussions between the Parties within 30 (thirty) days, then any Disputing Party may submit the claim or Dispute to be finally settled by arbitration in accordance with the Arbitration and Conciliation Act, 1996 and/or any amendments made thereunder ("Arbitration Act"). The Parties shall jointly be entitled to appoint a sole arbitrator, provided that if the parties fail to agree upon a sole arbitrator within 30 (thirty) days of the notice to submit the Dispute for arbitration, the Dispute shall be heard by such arbitrator as may be



appointed as per the provisions of the Arbitration Act. All arbitration proceedings shall be conducted in the English language and the seat and venue of arbitration shall be New Delhi. The Parties would be entitled to seek interim relief from the courts of New Delhi. The arbitrator shall decide any such Dispute or claim strictly in accordance with the laws in force in India. Judgement upon any arbitral award rendered hereunder may be entered in any court having jurisdiction, or application may be made to such court for a judicial acceptance of the award and an order of enforcement, as the case may be. The arbitral award shall be substantiated in writing and the arbitrator shall also have the right to decide on the costs of arbitration proceedings. Any award made by the arbitrator shall be final and binding on each of the Parties that were parties to the Dispute. Each Party shall cooperate in good faith to expedite (to the maximum extent practicable) the conduct of any arbitral proceedings commenced under this Agreement. Subject to the award of the arbitrator, neither the existence of any Dispute nor the fact that any arbitration is pending hereunder shall relieve any of the Parties of their respective obligations under this Agreement. Subject to any award of the arbitrator, the pendency of a Dispute in any arbitration proceeding shall not affect the performance of the obligations under this Agreement."

11. Accordingly, both the objections raised by the Respondent are rejected and this petition is allowed, appointing Ms. Saumya Tandon, Advocate (Mobile No.9810907029) as the Sole Arbitrator to adjudicate the disputes between the parties. Fee of the Arbitrator shall be fixed as per Fourth Schedule of 1996 Act.

12. Learned Arbitrator shall give disclosure under Section 12 of the 1996 Act before entering upon reference.

13. It is made clear that this Court has not expressed any opinion on the merits of the case and all rights and contentions of the respective parties are left open.

14. Petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

SEPTEMBER 16, 2025/S.Sharma