



\$~90

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

+ **ARB.P. 1166/2025**

**GOEL CONSTRUCTION CO THROUGH ITS SOLE PROPRIETOR  
LALIT KUMAR GOEL .....Petitioner**

Through: Mr. S.S. Sastry, Mr. Ankur Gosain,  
Mr. Priyank Goeland Ms. Chhavi, Advocates.

versus

**UNION OF INDIA MINISTRY OF RAILWAYS THROUGH  
GENERAL MANAGER NORTHERN RAILWAY.....Respondent**

Through: Mr. R. Venkat Prabhat, SPC with Ms.  
Kamna Behrani, Mr. Ansh Kalra and Mr. Siddharth  
Gautam, Advocates.

**CORAM:**

**HON'BLE MS. JUSTICE JYOTI SINGH**

**ORDER**

% **07.08.2025**

**I.A. 19058/2025**

1. This application is filed on behalf of the Petitioner seeking condonation of delay of 73 days in refiling the petition.
2. For the reasons stated in the application, the same is allowed condoning delay of 73 days in refiling the petition is condoned.
3. Application stands disposed of.

**ARB.P. 1166/2025**

4. This petition is filed on behalf of the Petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996 ('1996 Act') seeking appointment of Sole Arbitrator.
5. Disputes between the parties have emanated out of Letter of Award dated 22.06.2020 in favour of the Petitioner by the Respondent for construction of LKO: Civil Work in connection with provision of escalators at Lucknow (06 Nos.) and PDH (01 Nos.) over LKO Division and contract



agreement executed on 18.05.2022. As per the Petitioner, Respondent failed to make available hindrance free site to the Petitioner to commence and execute the work in a planned manner and facilitate timely completion of the work, resulting in idling of resource at the project site etc. Disputes having arisen, Petitioner sent a notice dated 06.03.2025 under Section 21 of 1996 Act invoking the arbitration clause for appointment of an Arbitrator, but there was no response from the Respondent.

6. Learned counsel for the Petitioner submits that Arbitration Clause 64 of GCC, 2019 provides that the arbitration will be conducted by Arbitral Tribunal comprising of three retired Railway Officers not below the rank of Senior Administrative Grade, for which purpose Railway will send a panel of at least 4 names of retired Railway Officers empanelled to work as Railway Arbitrators, out of which contractor will suggest at least 2 names, of which one will be appointed as contractor's nominee and the General Manager, Railways shall appoint balance number of Arbitrators, which would include the Presiding Arbitrator. This methodology of appointment of the Arbitral Tribunal, according to learned counsel is in teeth of judgment of the Supreme Court in ***Central Organisation for Railway Electrification v. ECI SPIC SMO MCML (JV) a Joint Venture Company, 2024 SCC OnLine SC 3219, (CORE)*** and therefore this Court may appoint a Sole Arbitrator to adjudicate the disputes between the parties.

7. Learned counsel for the Respondent fairly does not dispute that the Arbitral Tribunal cannot be constituted as per Clause 64 of GCC in light of the judgment of the Supreme Court in ***CORE (supra)***. However, it is urged that disputes raised by the Petitioner cannot be referred to arbitration in view of a Supplementary Agreement executed between the parties on 29.02.2024,



wherein the Petitioner had agreed that all its claims had been settled and the principal agreement stood discharged and rescinded, including discharge of the arbitration clause. In support, learned counsel hands over a communication dated 06.08.2025 sent to her by the Respondent intimating signing of Supplementary Agreement by the Petitioner. The document is taken on record.

8. Responding to the argument, learned counsel for the Petitioner submits that it is incorrect for the Respondent to urge that all claims of the Petitioner have been finally settled and there is '*accord and satisfaction*'. Invocation notice sent by the Petitioner on 06.03.2025 clearly brings forth the pending claims of the Petitioner under different heads, to which there was no response and consequently no rebuttal by the Respondent. Petitioner has taken a specific plea that the supplementary agreement was got signed by officials of the Railways under coercion and pressure as also that Petitioner signed the same under protest since its claims and additional GST payments etc., were pending. It is further submitted that a similar issue came up before Coordinate Bench of this Court in ***K.S. Jain v. General Manager Northern Railway & Another, 2024 SCC OnLine Del 5472***, wherein Northern Railways was the Respondent and a similar objection was raised but was rejected by the Court placing reliance on the judgment of the Supreme Court in ***SBI General Insurance Co. Ltd. v. Krish Spinning, 2024 SCC OnLine SC 1754***. It is urged that in any event even the question whether there is full and final settlement and thus '*accord and satisfaction*' is to be determined by the Arbitrator and reference cannot be declined on this objection by the Respondent.

9. Heard learned counsels for the parties.



10. The contention of the Petitioner that Arbitral Tribunal cannot be constituted as envisaged in Clause 64 of GCC has merit in light of the judgment of the Supreme Court in **CORE (supra)** and this position is fairly not disputed by counsel for the Respondent.

11. The sole argument of the Respondent in opposition to this petition is that by signing the supplementary agreement recording that payments have been made and principal agreement stands finally discharged, Petitioner is precluded from seeking reference of its disputes to arbitration. As rightly flagged by the Petitioner, invocation notice shows that Petitioner had intimated its outstanding claims to the Respondent indicating the heads of claims and the amounts. Respondent chose to remain silent and did not respond to this notice. In fact, Petitioner has taken a categorical plea that supplementary agreement was signed under duress, coercion and protest since payments towards the Petitioner were outstanding. It is, therefore, a disputed question today as to whether there was full and final payment and thereby '*accord and satisfaction*' as also whether the arbitration agreement stood eviscerated by supplementary agreement.

12. A similar issue came up before this Court in **K.S. Jain (supra)**, where a supplementary agreement was executed between the Petitioner and Respondent, whereby Petitioner agreed that in view of the amounts paid to the Petitioner, no further claim of the Petitioner survived. It was also agreed and understood by and between the parties, as recorded in the supplementary agreement, that arbitration clause contained in the principal agreement shall cease to have any effect and/or shall be deemed to be non-existent for all purpose. Court rejected the objection of the Railways on the ground that once the Petitioner alleges duress or coercion in signing the supplementary



agreement, the issue whether supplementary agreement would continue to be enforceable, becomes an arguable issue, which can only be decided by the Arbitral Tribunal in light of the judgment of the Supreme Court in ***Krish Spinning (supra)***, circumscribing the jurisdiction of a referral Court to examine the existence of the arbitration agreement.

13. In ***Krish Spinning (supra)***, the Supreme Court held that there is no rule of absolute kind which precludes arbitration in cases where full and final settlement has been arrived at and where a party stated to have executed a discharge voucher or no due certificate, alleges that the execution was on account of fraud, coercion or undue influence by the other party, the discharge voucher/no due certificate is rendered void. Therefore, mere execution of full and final settlement receipt would not by itself operate as a bar to arbitration and when its validity is questioned. In such a case, the matter would be referred for arbitration since the full and final settlement of the original contract itself becomes a matter of dispute and disagreement between the parties. Dealing with scope of jurisdiction of the Court under Section 11(6) of 1996 Act, the Supreme Court held that question of '*accord and satisfaction*' being a mixed question of law, comes within the exclusive jurisdiction of the Arbitral Tribunal in the absence of agreement to the contrary between the parties. It was further held that dispute regarding '*accord and satisfaction*' does not pertain to existence of arbitration agreement and can be adjudicated by the Arbitral Tribunal as a preliminary issue. In this context, I may also refer to the judgment of the Supreme Court in ***Arabian Exports Private Limited v. National Insurance Company Ltd., 2025 SCC OnLine SC 1034***.

14. In light of the aforesaid judgments, the objection of the Respondent is



rejected and this petition is allowed. Parties jointly propose and agree to appointment of Mr. Justice S.P. Garg, former Judge of this Court (Mobile No. 9910384627) as Sole Arbitrator to adjudicate the disputes between the parties. Fee of the Arbitrator shall be fixed as per Fourth Schedule of 1996 Act.

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

16. 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. It will be open to the Respondent to raise the issue of '*accord and satisfaction*' in light of the Supplementary Agreement dated 29.02.2024 allegedly executed between the parties before the learned Arbitrator.

17. Petition stands disposed of in the aforesaid terms.

**JYOTI SINGH, J**

**AUGUST 7, 2025/shivam**