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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 1438/2024**

VISHAL NIRMITI PRIVATE LIMITEDPetitioner

Through: Mr. Pradeep Shukla, Adv.

versus

M/S KMC CONSTRUCTIONS LTDRespondent

Through: Mr. Sidhant Dwibedi, Mr. Manoj

Kumar, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **25.04.2025**

1. This is a petition filed under section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator for adjudication of disputes between the parties.

2. The facts are that the respondent issued four interlinked work orders to the petitioner in connection with the same project. Under these work orders, the petitioner was engaged as a sub-contractor to execute various tasks related to the construction of 6 laning of Gurgaon – Kotputli – Jaipur Section of NH-8 in the State of Haryana and Rajasthan. The details of 4 work order(s) are as under:

Sr. No.	Work Order No.	Dated
1.	KMC/WO/11/003A	01.04.2011
2.	KMC/WO/11/008A	13.05.2011
3.	KMC/WO/12-13/014	08.02.2014
4.	KMC/WO/14-15/050	09.02.2014

3. Upon completion of the work, the petitioner submitted final bills in



respect of the work orders, however, the same were not paid.

4. All the work orders have different serial number(s), but contain identical terms and conditions, including the arbitration clause. The arbitration clause of the work order(s) reads as under:-

“Disputes:- Any disputes arising out of or in relation to this work order shall be referred or resolved by arbitration by appointment of a sole arbitrator. The Sole Arbitrator shall be appointed by KMC. The Contractor shall not raise any objection to such appointment. The arbitration proceedings shall be in accordance with Arbitration and Conciliation Act, 1996 or any modification or amendment thereto. The place of Arbitration shall be at Delhi and the proceedings shall be held in English language. The award of sole Arbitrator shall be final and binding on both the parties. Each party shall bear its own for participating in arbitration proceedings.”

5. Since there were amounts due and payable, the petitioner invoked arbitration vide legal notice dated 17.04.2024.

6. Thereafter, the present petition has been filed.

7. Mr. Dwibedi, learned counsel for the respondent, submits that while he has no objection to the appointment of the arbitrator, each of the work order(s) constitutes a separate contract and, accordingly, requires a separate reference number. However, he has no objection if the same arbitrator is appointed in all the 4 references.

8. I am of the view that each work order constitutes a separate contract and is to be adjudicated separately. The same is in line of the judgment(s) passed by the learned Coordinate Bench of this Court in (1) **Delhivery**



Private Limited v. SS Supply Chain Solutions Private Limited passed in Arb. P. 412/2021, (2) **Amardeep Builders v. G.N.C.T. of Delhi** passed in Arb. P. 22-24/2021 and (3) **Manisha Kulkarni v. NCC Limited** passed in Arb. P. 632/2020 relying on the law laid down by the Hon'ble Supreme Court in **Duro Felguera, S.A. v. Gangavaram Port Ltd.** (2017) 9 SCC 729.

9. Hence, the petition is allowed and the following directions are issued:-

- i) Mr. Sujit Kumar Singh, Advocate (Mob. No. 9810258079) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties arising out of the 4 work orders. Each of the work order shall be a separate reference and shall be numbered and adjudicated separately.
- ii) The arbitration will be held under the aegis and rules of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter, referred to as the 'DIAC') and as per Rules of DIAC.
- iii) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.
- iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- v) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims/counter-claims and merits of the dispute of either of the parties, are left open



- for adjudication by the learned arbitrator.
- vi) The parties shall approach the learned Arbitrator within two weeks from today.
10. The present petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

APRIL 25, 2025 / (MS)

Click here to check corrigendum, if any