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

+ **ARB.P. 1380/2025 with I.A. 25599/2025**

**DATTA HYDRO CHEMPVT. LTD.** .....Petitioner

Through: Ms. Apurva, Mr. Shivaji J. Madhav &  
Mr. Brij Kishor Sah, Advocates.

versus

**HPCL MITTAL ENERGY LTD.** .....Respondent

Through: Mr. Rishab Kumar, Advocate

**CORAM:**

**HON'BLE MR. JUSTICE AMIT BANSAL**

**ORDER**

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**14.10.2025**

**I.A. 25599/2025 (seeking condonation of delay in filing the affidavit in reply)**

1. This application has been filed on behalf of the respondent seeking condonation of delay of 23 days in filing the affidavit in reply in terms of order dated 3<sup>rd</sup> September, 2025.
2. For the reasons stated in the application, the delay of 23 days in filing the affidavit in reply on behalf of the respondent is condoned.
3. The application stands disposed of.

**ARB.P. 1380/2025**

4. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter 'Act') seeking appointment of a Sole Arbitrator for adjudication of the disputes between the parties arising out of the Purchase Order No. 9540020715 dated 9<sup>th</sup> January,



2023 issued by the respondent in the name of the petitioner at a basic order value of Rs. 37,57,56,615/- and the supplementary General Purchase Conditions (hereinafter 'GPC').

5. Counsel for the petitioner submits that the GPC contains an arbitration clause, i.e. Clause 37.2, which provides for adjudication of any dispute arising between the parties by way of arbitration. The said arbitration clause is set out below:

***"37.2 Arbitration***

*37.2.1 In the event of any disputes or difference between the Owner/Purchaser and the Contractor arising out of or in connection or relation to this contract/Agreement other than reserved matters for which decision of Engineer-in-Charge shall be final and binding upon the Parties, a Party prior to initiation of any proceedings under this contract/Agreement shall promptly give a written notice to the other Party setting out in clear and concise language the relevant facts, nature and circumstances of the disputes, relief sought including any amount claimed ('Notice of Disputes').*

*37.2.2 Upon receipt of a Notice of Disputes, representatives of the Owner/Purchaser and the Contractor shall forthwith use their best efforts in good faith to reach a reasonable and equitable resolution of the disputes and produce written terms of settlement thereof.*

***37.2.3 If the representatives of Owner/Purchaser and the Contractor are unable to produce written terms of settlement and resolve the disputes within forty-five (45) days of receipt by either Party of a Notice of Disputes, then such unresolved disputes shall be finally settled in arbitration.***

***37.2.4 In case of any such unresolved disputes, any Party wishing to commence arbitration shall issue a ('Notice Invoking Arbitration') to the Appointing Authority for the appointment of the arbitrator. A Notice Invoking Arbitration shall be different and distinct from Notice of Disputes as mentioned in clause 37.2.1 above. Notwithstanding the Notice Invoking Arbitration issued by a Party, the other Party shall in addition to its right of pleading or set off, set up, by way of counter claim, including but not limited to a counter claim in the matter of a claim for damages or not against the claim of a Party issuing the Notice Invoking Arbitration and the other Party shall have no objections in this regard.***



37.2.5 Upon receiving such a Notice Invoking Arbitration, the Appointing Authority shall appoint the arbitrator within thirty (30) days from the date of receipt of such Notice Invoking Arbitration. Failing which, the Party issuing the Notice Invoking Arbitration may, after the expiry of thirty (30) days, approach the Chief Justice of Delhi High Court alone for the appointment of the arbitrator as also agreed in clause 37.2.12 herein.

**37.2.6 The Appointing Authority shall be the Chief Executive Officer & Managing Director of the Owner/Purchaser or any other person duly authorized by him for this purpose.**

**37.2.7 The arbitral tribunal as constituted by the Appointing Authority shall comprise of a sole arbitrator and shall either be a retired judge of the Supreme Court of India or a retired judge of a High Court or a retired judge of a District or Civil Court.**

37.2.8 The award of the arbitral tribunal shall be a reasoned and written award and shall be final and binding upon the Parties, and shall be the sole and exclusive remedy between the Parties regarding, any claims, counterclaims, issues or accounting presented or pleaded to the arbitrator.

37.2.9 The provisions of the Arbitration and Conciliation Act, 1996 or any statutory modification or re-enactment thereof and the rules made there under, shall apply to the arbitration proceedings under this Clause. Indian law, without reference to its conflict of law principles, shall be governing substantive and procedural law of such arbitration.

37.2.10 The arbitration shall be held at New Delhi and the proceedings shall be carried out in English language only.

37.2.11 The Parties shall continue to comply with, observe and perform all of their obligations hereunder regardless of the nature of the disputes and notwithstanding the referral of the disputes to arbitration. In particular Contractor acknowledges and agrees that the balance of convenience is in favour of the Owner/Purchaser as regards timely completion of the Works on account of time being of the essence in this contract/Agreement, and it shall not be entitled to obtain any injunctive relief in this regard. The Contractor shall observe and perform its obligations under the contract/Agreement regardless of the nature of the disputes and notwithstanding the referral of the disputes to arbitration.

37.2.12 Subject to the foregoing provisions relating to arbitration, the courts at New Delhi shall have sole and exclusive jurisdiction in relation to or in connection with this contract/Agreement, including (but not limited to) for the purposes of interim measures under Section 9 of the Arbitration and Conciliation Act, 1996.”



[emphasis supplied]

6. She further submits that after issuance and acceptance of the aforesaid purchase order, the petitioner delivered goods to the respondent and received a total consideration of Rs. 20,08,21,656/- in lieu of the same.

7. Subsequent to 30<sup>th</sup> November, 2023, the respondent stopped giving any instructions regarding the delivery schedule to the petitioner despite numerous follow-ups. On 1<sup>st</sup> April, 2024, the respondent informed the petitioner that it no longer needed the remaining contractual quantity of goods and illicitly short-closed the aforesaid purchase order.

8. Aggrieved by the aforesaid, the petitioner sent a notice of dispute dated 19<sup>th</sup> April, 2024 to the respondent calling upon the respondent to accept delivery of the remaining contractual quantity of goods and subsequently, a notice dated 10<sup>th</sup> July, 2024 invoking the aforesaid arbitration clause under Section 21 of the Act.

9. The respondent sent a reply to the aforesaid invocation notice on 12<sup>th</sup> August, 2024. However, appointment of the Sole Arbitrator could not be mutually agreed upon by the parties.

10. Notice was issued in the present petition on 3<sup>rd</sup> September, 2025.

11. Counsel appears on behalf of the respondent and submits that without prejudice to the rights and contentions of the respondent, the respondent is agreeable for the appointment of a retired judge of this Court as a Sole Arbitrator.

12. Accordingly, the dispute between the parties arising out of the GPC is referred to the Arbitral Tribunal comprising a Sole Arbitrator. The following directions are issued in this regard:

a. Justice (Retd.) Rajiv Shakdher, Former Judge of this Court



(Mobile No.: +91 97174 95004) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.

b. The arbitral proceedings shall be held under the aegis and Rules of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (hereinafter 'DIAC').

c. The remuneration of the Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.

d. The Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference. In the event there is any impediment to the Arbitrator's appointment on that count, the parties are given liberty to file an appropriate application before this Court.

e. The parties shall approach the Arbitrator within two (2) weeks from today.

13. It is made clear that all the rights and contentions of the parties, including the arbitrability of any of the claims, and/ or counter claims, any other preliminary objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the Arbitrator.

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

15. Needless to state, nothing in this order shall be construed as an expression of this Court on the merits of the case.

16. The Registry is directed to send a copy of this order to the Secretary, DIAC for information and compliance and the learned Sole Arbitrator.

**AMIT BANSAL, J**

**OCTOBER 14, 2025/ds**