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

+ **ARB.P. 1677/2024**

GALE OVERSEAS TRADING PVT LTDPetitioner

Through: Mr.Aditya Malhotra, Ms.Tripti Kapoor
and Ms.Eshita Gupta, Advocates

versus

NORTHERN RAILWAYRespondent

Through: Mr.Vineet Dhanda, CGSC with
Mr.Saksham Sethi and Ms.Akansha Choudhary,
Advocates

CORAM:

HON'BLE MR. JUSTICE MANOJ KUMAR OHRI

ORDER

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31.01.2025

1. By way of present petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the 'A&C Act'), the petitioner seeks appointment of Arbitral Tribunal comprising of a Sole Arbitrator, to adjudicate the disputes between the parties.
2. Learned counsel for the petitioner submits that the parties had entered into Agreement dated 23.08.2021, Clause 26 of which provides that disputes with respect to the said Agreement shall be resolved through arbitration as per provisions of A&C Act.
3. Disputes having arisen between the parties, petitioner invoked arbitration vide notice dated 29.04.2024, issued under Section 21 of the A&C Act, to which, a reply in August 2024 was received on behalf of the respondent.



4. Learned counsels for the parties submit that even though the aforesaid Agreement stipulates appointment of a Panel of three Gazetted Railway Officers as the Arbitrators constituting the Arbitral Tribunal, the parties have no objection to the matter being referred to the Arbitral Tribunal comprising of a Sole Arbitrator appointed by this Court and for the arbitration to be held under the aegis of Delhi International Arbitration Centre (hereinafter, referred to as the 'DIAC').

5. Considering that both the parties have consented to the reference to the Arbitral Tribunal comprising of a Sole Arbitrator, the present petition is disposed of with the following directions:

- i) The disputes between the parties under the said agreement are referred to the Arbitral Tribunal.
- ii) Mr. Justice H. R. Malhotra, former Judge at High Court of Delhi (Mob.No. 9311510400) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.
- iii) The arbitration will be held under the aegis of the DIAC, Delhi High Court, Sher Shah Road, New Delhi. The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018 or as the parties may agree.
- iv) The learned Arbitrator shall furnish a declaration in terms of Section 12 of the A&C 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/counter-claim, 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 learned arbitrator.



vi) The parties shall approach the learned Arbitrator within two weeks from today.

MANOJ KUMAR OHRI, J

JANUARY 31, 2025

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