



\$~6

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

ARB.P. 2118/2024

M/S N.E. IMPEX PVT. LTD.

.....Petitioner

Through: Ms. Shreya Jain, Adv.

versus

M/S. GREENVALE ECO PRODUCTS PVT. LTD. & ORS.

.....Respondents

Through: Mr. Anand Dilip Landge & Mr. Sumit Kumar, Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

%

16.04.2025

1. This is a petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking appointment of an arbitrator to adjudicate the disputes between the parties, arising out of different outstanding invoices raised from time to time.
2. The brief facts of the case are that the petitioner supplied goods to the respondent and the respondent failed to make payments pursuant to goods dispatched at its Kolhapur centre on 26-07-2023 NE/348, 29-07-2023 NE/352, 31-07-2023 NE/354 & NE/356, 01-08-2023 NE/357, 02-08-2023 NE/362, 03-08-2023 NE/366, 04-08-2023 NE/370, 07-08-2023 NE/388, 08-08-2023 NE/395 & 398, 12-08-2023 NE/419 & 421, 18-08-2023 NE/429, 21-08-2023 NE/440, 24-08-2023 NE/443, 31-08-2023 NE/478, 02-09-2023 NE/486.
3. All the invoices contain an arbitration clause, being clause No.1(a), which reads as under:

"Declaration



1) We decide that this invoices shows the actual price of the goods described and that all particulars are true and correct. Terms & Conditions:

(a) All disputes are subject to Delhi Jurisdiction & will be settled through arbitration. Arbitrator will be appointed through DIAC & the seat of arbitration will be at New Delhi.”

4. Since the amounts were not paid under the invoices, the petitioner invoked arbitration vide legal notice dated 20.09.2024 and thereafter, filed the present petition.
5. Learned counsel for the respondent states that the materials supplied by the petitioner were sub-standard in quality, as a result of which, the respondent had to bear losses.
6. In addition, reliance is placed on **Concrete Additives & Chemicals Pvt. Ltd. v. S N Engineering Services Pvt. Ltd., 2022 SSC OnLine Bom 8034**, to urge that the invoices containing arbitration clauses do not constitute a valid arbitration.
7. I have heard learned counsel for the parties.
8. On perusal, I am of the view that the issues of the materials supplied by the petitioner being sub-standard or the respondent having suffered losses on account of the supplied materials, are disputes on merits, which the learned arbitrator would decide.
9. Further, the judgment of Bombay High Court in **Concrete Additives & Chemicals Pvt. Ltd. (supra)** has been set aside by the Hon’ble Supreme Court in **Concrete Additives & Chemicals Pvt. Ltd. v. S N Engineering Services Pvt. Ltd., Civil Appeal 7858/2023, decided on**



28.11.2013. It has been held by the Hon'ble Supreme Court as under:

“Hence, we do not agree with the High Court that there was no arbitration clause. All issues canvassed by the respondent, while opposing the petition under Section 11 of the Arbitration Act can always be canvassed before the Arbitral Tribunal in accordance with law.”

10. Therefore, I am of the view that the said invoices constitute a valid arbitration agreement and hence, the petition needs to be allowed.
11. For the said reasons, the petition is allowed and the following directions are issued:-
 - i) Ms. Rashmi Chopra (Sr. Adv.) (Mob. No. 9810311218) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
 - ii) The arbitration will be held under the aegis and the rules of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi (“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.

12. The present petition is disposed of accordingly.
13. The judgment handed over in Court today is taken on record.

JASMEET SINGH, J

APRIL 16, 2025/pk

Click here to check corrigendum, if any