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

+ ARB.P. 17/2025

SCHNEIDER ELECTRIC INDIA PRIVATE LIMITED
THROUGH ITS AUTHORIZED REPRESENTATIVE
MR RAJIV GUPTA

.....Petitioner

Through: Mr. Deepak Biswas, Mr. Junaid Khan
and Mr. Sidharth Swain, Advocates.

versus

M/S TALCHER FERTILIZERS LTD

.....Respondent

Through: Mr. Benjamin Vanlalvena,
Mr. Kushank Sindhu, Mr. Abhinav Goyal,
Mr. Utkarsh Bansal and Mr. Karan Vijayan,
Advocates.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

03.04.2025

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1. This petition is filed under Section 11(6) of Arbitration and Conciliation Act, 1996 ('1996 Act') for appointment of an Arbitrator in terms of the arbitration clause appearing in Clause 107.1 of GCC.
2. As per the averments in the petition, Project and Development India Limited (PDIL) issued Notice Inviting Tender (NIT) on 30.06.2018 on behalf of the Respondent for Pre-Project Electrical Works (Supply & Erection) at Talcher Fertilizers Limited, Angul Distt., Odisha. Acceptance letter was issued to M/s. Larsen & Toubro Limited (Electrical System & Equipment's) [L&T] by the Respondent on 28.08.2018. During execution of the project L&T was acquired by the Petitioner by virtue of Business Transfer Agreement dated 01.05.2018. Detailed Letter of Acceptance was issued on 05.09.2018 and amended Purchase Order for an amount of



Rs.11,04,21,912/- was issued by Respondent in favour of L&T on 19.07.2020 with additional work.

3. Petitioner avers that there was novation of the contract on 19.01.2021 in favour of the Petitioner w.e.f. 01.09.2020 and DLOA was assigned to L&T. As per NIT, DLOA and FOA, the defined scope of work was to be completed initially within 9 months ending on 27.05.2019, however, owing to various factors not attributable to L&T or Petitioner, project was successfully charged on 21.03.2021. Thereafter, several disputes arose between the parties and on 23.02.2024, Petitioner sent a notice to the Respondent invoking the arbitration clause, which was delivered by post on 26-27.02.2024. By e-mail dated 15.05.2024, Respondent issued payment advice pertaining to release of hold GST amounting to Rs.9,41,349/-, however, Respondent failed to finalise the delay analysis and release the balance amount as per Clause 27 of GCC and/or appoint an arbitrator. As per the Petitioner, the total amount due and payable as on date by the Respondent is Rs.60,38,585.67 with interest.

4. Reply is filed on behalf of the Respondent. In paragraph 5, Respondent admits the existence and receipt of invocation notice dated 23.02.2024 and in paragraph 6 existence of arbitration agreement is also admitted *albeit* the allegations in the petition as also the amounts stated to be due towards the Petitioner are denied.

5. In light of the fact that Respondent does not dispute the existence of the arbitration agreement as also receipt of the invocation notice, there is no impediment in appointment of the arbitrator. Learned counsels for the parties submit that under Clause 107.1 of GCC, a panel of three independent Arbitrators is to be curated out of which one has to be appointed as an



Arbitrator, however, in light of the 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*, parties consent to appointment of Sole Arbitrator through Delhi International Arbitration Centre (DIAC).

6. Accordingly, with the consent of the parties, matter is referred to DIAC for appointment of Sole Arbitrator to adjudicate the disputes between the parties. Arbitration proceedings will be held under the aegis of DIAC and as per its Rules.

7. Learned Arbitrator shall give disclosure under Section 12 of the 1996 Act before entering into reference. Fee of the Arbitrator shall be as per the DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.

8. 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 is also made clear that the acceptance by the Respondent of the existence of the arbitration agreement will not be construed as acceptance or admission of the liability as averred in the petition.

9. Copy of this order be sent to DIAC for information and compliance.

10. Petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

APRIL 03, 2025/B.S. Rohella/shivam