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

\# **CNR No. DLHC010112372026**

\+ ARB.P. 505/2026 & I.As. 7849-50/2026

JMD CRANES .....Petitioner

Through: Mr. Anjaneya Mishra, Advocate.

versus

THE INDURE PRIVATE LIMITED .....Respondent

Through: Mr. Ronak Gupta, Advocate.

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

O R D E R

% 28.10.2026

1. This petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 [hereinafter, "the Act"], has been filed for appointment of an Arbitrator to adjudicate the disputes between the parties under a Work Order dated 07.12.2018, placed upon the petitioner by the respondent.

2. I have heard Mr. Anjaneya Mishra, learned counsel for the petitioner, and Mr. Ronak Gupta, learned counsel for the respondent.

3. The Work Order admittedly contains an arbitration clause [Clause 7.0], which provides for adjudication of disputes by a sole Arbitrator. Delhi has been designated as the place of arbitration.

4. Disputes having arisen between the parties with regard to the alleged non-payment of the petitioner's dues, the petitioner, being a small

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enterprise within the meaning of the Micro, Small and Medium Enterprises Development (MSMED) Act, 2006 [hereinafter, "the MSMED Act"], first instituted proceedings before the Haryana Micro and Small Enterprises Facilitation Council. The proceedings resulted in an award in its favour, dated 02.12.2022.

5. The respondent has challenged the said award before the appropriate Court in Panchkula [ARB-50-2024], which remains pending.

6. In the meanwhile, the petitioner put the award dated 02.12.2022 for execution before the Commercial Court, South-East, Saket Courts, Delhi [Execution (Comm.) 268/2023]. The respondent resisted the execution proceedings on various grounds, and its objections have been upheld by order dated 06.12.2024. The Executing Court has come to the conclusion that the petitioner obtained the registration under the MSMED Act only in May 2020, i.e. after the transactions with the respondent, and could, therefore, not have approached the Micro and Small Enterprises Facilitation Council for redressal of its grievances.

7. Although the petitioner challenged the aforesaid order before this Court in CM(M) 226/2025, the petition was permitted to be withdrawn by order dated 29.01.2026, with liberty to take appropriate remedies.

8. The petitioner has thereafter invoked arbitration afresh, by way of a legal notice dated 29.01.2026 addressed to the respondent.

9. The position which emerges from the above is that the Micro and Small Enterprises Facilitation Council adjudicated the petitioner's claim in its favour, but the award has been held to be unenforceable on a jurisdictional ground. The petitioner has ultimately accepted the said decision, and was granted liberty to take appropriate remedies in respect

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of its claims. Indeed, the respondent has also challenged the said award, which remains pending.

10. Mr. Mishra specifically states, upon instructions, that the petitioner has accepted the position that the award dated 02.12.2022 was *non-est*, having been passed in proceedings which were without jurisdiction. He submits that the petitioner will not rely upon the said award, and not put the said award in execution before any Court.

11. Subject to the aforesaid clarification, Mr. Gupta has not controverted the existence of the arbitration clause or the invocation thereof. He, therefore, submits that an Arbitrator may be appointed, leaving all rights on maintainability, arbitrability, limitation, and on merits open for adjudication before the learned Arbitrator.

12. Mr. Gupta further submits that there are some preliminary issues, which may require decision at the outset. That is also a matter which the respondent may raise before the learned Arbitrator.

13. In view of the above and subject to the aforesaid clarification, and with the consent of learned counsel for the parties, the petition is disposed of with the following directions:

a. Mr. Samar Kachwaha, Advocate [Tel: 9910940162] is appointed as the Sole Arbitrator to adjudicate the disputes between the parties arising out of the Work Order dated 07.12.2018.

b. The arbitration will be held under the aegis of the Delhi International Arbitration Centre [“DIAC”], and will be governed by the Rules of DIAC, including as to the remuneration of the learned Arbitrator.

c. The learned Arbitrator is requested to furnish the requisite

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declaration under Section 12 of the Act, prior to entering upon the reference.

14. The petition, alongwith pending applications, stands disposed of in the above terms.

15. It is clarified that this Court has not expressed any opinion on the merits of the disputes. All rights and contentions of the parties, including those relating to the arbitrability and maintainability of the claims and the merits of the disputes, are left open for adjudication by the learned Arbitrator.

PRATEEK JALAN, J

OCTOBER 28, 2026
"B"/KA/

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