



2025:DHC:1516



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 202/2025**

Date of Decision: **04.03.2025**

IN THE MATTER OF:

VADIM INFRASTRUCTURE PRIVATE LIMITED

.....Petitioner

Through: Mr. V. M. Kannan, Ms. Harimohana
N. and Mr. Mayank Singh, Advs.

versus

BHARAT HEAVY ELECTRICALS LIMITED

.....Respondent

Through: Mr. Mani Gupta, Ms. Sonali Jain and
Ms. Garima Sharma, Advs.

HON'BLE MR. JUSTICE PURUSHAINDR KUMAR KAURAV

JUDGEMENT

PURUSHAINDR KUMAR KAURAV, J. (ORAL)

1. Learned counsel appearing for the respondent, at the outset, seeks liberty to not press the reply filed on behalf of the respondent. She, however, on instructions, consents for the appointment of Arbitrator, reserving all rights and contentions.
2. The present petition is for the appointment of an independent sole arbitrator to adjudicate the dispute between the parties.
3. The facts of the case would indicate that on 15.02.2016, respondent - Bharat Heavy Electricals Limited [BHEL] appears to have floated a tender



for the receipt of equipment/material, unloading, inspection, verification, storage, upkeeping during storage, erection, testing, commissioning and handing over of 400 kV substation at Bhuj, Gujarat (Pkg.-II) (“**Project**”). On 20.05.2017, the letter of intent appears to have been issued by BHEL to the petitioner. On 16.08.2017, a detailed work order was issued in favour of the petitioner. On 07.09.2017, a contract agreement was executed between the parties, agreeing upon certain terms and conditions for the completion of the project.

4. During the subsistence of the contract, certain disputes have arisen. Thus, the petitioner invoked arbitration clause 22 of the work order, which reads as under:-

“22.0 ARBITRATION:

22.1 Except where otherwise provided for in the contract all questions & disputes relating to the meaning of the specification designs, drawings and instruction herein before mentioned and as to the quality of workmanship or materials used on the work or as to any other question, claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawings specifications, estimates, instructions, orders of these conditions or otherwise concerning the works, of the execution or failure to execute the same whether arising during the progress of the work or after the completion or abandonment thereof shall be referred to the sole arbitration of the Head TBG, BHEL, Noida and if the Head TBG is unable or unwilling to act, to the sole arbitration of some other person appointed by the Head TBG willing to act as such arbitrator.

A party wishing to commence arbitration proceeding shall invoke Arbitration Clause by giving 60 days notice to the other party. The notice invoking arbitration shall specify all the points of disputes with details of the amount claimed to be referred to arbitration at the time of invocation of arbitration and not thereafter.

There will be no objection if the arbitrator so appointed is an employee of BHEL and he had to deal with the matters to which the contract relates, in the course of his duties. The arbitrator to whom the matter is originally referred being transferred or vacating his office or being unable to act for any reason such Head TBG as aforesaid at the time of such transfer vacation of office or inability to act shall appoint (see note) another person to act as arbitrator in accordance with the terms of the contract such person shall be entitled to proceed with the reference from the stage



at which it was left by his predecessor. It is also a term of this contract that no person other than person appointed by such Head TBG as aforesaid should act as arbitrator and if for any reason that is not possible the matter is not to be referred to arbitration at all, in all cases where the amount of the claim dispute is Rs. 50,000/- (Rupees fifty thousand) and above the arbitrator shall give reasons for the award.

The provisions of Indian Arbitration and Conciliation Act 1996 or any statutory modification or re-enactment thereof and the rules made thereunder and the time being in force shall apply to the arbitration proceeding under this clause.

It is a term of the contract that the party involving arbitration shall specify the dispute or disputes to be referred to arbitration under this clause together with the amounts claimed in respect of each dispute.

The arbitrator may from time to time with consent of the parties enlarge the time for making and publishing the award.

The work under the contract shall, if reasonably possible, continue during the arbitration proceedings and no payment due or payable to the contractor shall be withheld on account of such proceedings.

The Arbitrator shall be deemed to have entered on the reference on the date he issues to both the parties fixing the date of the first hearing.

The Arbitrator shall give a separate award in respect of each dispute or difference referred to him.

The Venue of arbitration shall be at New Delhi.

The award of the arbitrator shall be final, conclusive and binding all parties to this contract, subject to the provisions of the Arbitration and Conciliation Act, 1996.

Laws governing the Contract:

The contract shall be governed by the Indian Laws for the time being in force.

NOTE: The Authority appointing the arbitrator should not be lower in rank than the Authority accepting the Agreement.

22.2. The cost of arbitration shall be borne equally by the parties.

22.3 Neither party shall be entitled for any pre-reference or pendent – lite interest on its Claims and any claim for such interest made by any party shall be void.”

5. In view of the aforesaid, it is evident that there exists an arbitration clause in the event any dispute has arisen between the parties. There is no impediment in appointing an independent Sole Arbitrator for adjudicating the disputes between the parties as prayed for, as mandated in terms of the judgments of the Supreme Court in ***Perkins Eastman Architects DPC v.***



HSCC (India) Ltd.,¹ TRF Limited v. Energo Engineering Projects Ltd.,² Bharat Broadband Network Limited v. United Telecoms Limited.,³ and Interplay between Arbitration Agreements under the Arbitration & Conciliation Act, 1996 & the Indian Stamp Act, 1899, In re⁴.

6. Learned counsel appearing for the respondent, however, contends that there are certain counterclaims which are raised against the petitioner.

7. Be that as it may. Since the dispute has been referred to the sole arbitrator, the parties shall be entitled to press their claims/ counterclaims etc.

8. Reserving all rights and contentions of the respective parties, the Court appoints Mr. Rajul Shrivastava, Advocate (Mob No:- 09891860220 Email:- advrajul@gmail.com), as the Sole Arbitrator to adjudicate the dispute between the parties.

9. The Sole Arbitrator may proceed with the arbitration proceedings, subject to furnishing to the parties, requisite disclosures as required under Section 12 of the Arbitration and Conciliation Act, 1996 (hereinafter referred as “A&C Act”).

10. The Sole Arbitrator shall be entitled to fee in accordance with the IVth Schedule of the A&C Act; or as may otherwise be agreed to between the parties and the learned Sole Arbitrator.

11. The parties shall share the arbitrator's fee and arbitral cost, equally.

12. All rights and contentions of the parties in relation to the claims/counter claims are kept open, to be decided by the Sole Arbitrator on

¹ (2020) 20 SCC 760

² (2017) 8 SCC 377

³ 2019 SCC OnLine SC 547



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their merits, in accordance with law.

13. Needless to say, nothing in this order shall be construed as an expression of opinion of this Court on the merits of the controversy between the parties. All rights and contentions of the parties in this regard are reserved. Let the copy of the said order be sent to the newly appointed Arbitrator through the electronic mode as well.

14. Accordingly, the instant petitions stand disposed of.

PURUSHAINDR KUMAR KAURAV, J

MARCH 04, 2025/p/sp

Click here to check corrigendum, if any

⁴ 2023 SCC OnLine SC 1666.