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

+ **ARB.P. 210/2024, I.A. 3744/2024**

POTENTIAL PROJECT MANAGERS PRIVATE LIMITED

..... Petitioner

Through: Mr.Ashwin Kumar DS and Mr.Ishan
Roy Chowdhary, Advts.

versus

**JONES LANG LASALLE PROPERTY CONSULTANTS INDIA
PVT. LTD.**

..... Respondent

Through: Mr.Abhinav Srivastava, Adv.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

01.05.2024

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By way of the 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 *inter se* the parties.

The petitioner is engaged in the execution, carrying out and overseeing of Works Contracts consisting of civil and other works awarded to it. The respondent awarded a tender and purchase order was placed for construction of underground tanks and related infrastructure works on the site of Intel Technologies India Pvt. Ltd. ('Client') located on Outer Ring Road, Bangalore consisting of 9 items of work at a total net value (excluding



tax) of Rs.5,17,99,999.99. Upon issuance of the purchase order dated 21.12.2021. Petitioner entered into a detailed Vendor Agreement for Services/Material Supply/Works dated 23.12.2021 with the Respondent. Clause 15 of the agreement provides that the matter will be referred for arbitration. The agreement further provides that the sole arbitrator is to be appointed by the respondent and the arbitration is to be held at New Delhi. Learned counsel for the petitioner submitted that after the issuance of the purchase order the petitioner based on the initial timelines, began mobilizing its resources and submitted a detailed initial schedule on 10.01.2022 which envisaged the issue of Good for Construction drawings by the Respondent by 15.01.2022 based on which a detailed schedule was to be drawn out providing for the works as envisaged in the purchase order dated 21.12.2021 to be completed by 31.05.2022. Learned counsel for the petitioner submitted that however instead of issuing the drawings, the respondent issued an amended purchased order dated 24.01.2022 and Delivery Date was revised to 31.08.2022 and the Payment Terms was also revised to Net 75 Days from 60 days. Upon this, the dispute arose between the parties and the work could not be commenced. Learned counsel for the petitioner submits that their invoices for 3 progress claims on 06.09.2022 totaling amount of Rs. 71,26,299/- were submitted to the respondent. However, the respondent paid a sum of Rs. Rs. 36,61,883/- the rest were withheld and remained unpaid.

Learned counsel submits that vide email dated 05.04.2023 respondent issued an ultimatum to the Petitioner approving a sum of Rs. 15,74,140/- towards the Petitioner's claim for additional works, completely disregarding the rest of work along with that, a list of penalties was imposed on the Petitioner for false and fictitious reasons. Learned counsel submits that as



amount was not paid a legal notice dated 28.04.2023 was issued for demanding outstanding amount of Rs.34,64,416/- along with interest and also Rs. 1,62,37,421/- for additional/variation works. The arbitration clause was invoked vide notice dated 28.04.2023. The total claim amount is around Rs.2crores. Learned counsel for the respondent submits that the total contract value was Rs.5,17,00,000/-.

The parties were referred for mediation. However, the parties could not reach on any settlement. Learned counsel for the respondent submits that without prejudice to the rights and contentions to be taken by the respondent in the arbitration and subject to all the contentions being left open, the matter may be referred to the learned arbitrator.

In view of the submissions made, the matter is referred to the arbitral tribunal with the following directions:

- i) The disputes between the parties under the said agreement are referred to the arbitral tribunal.
- ii) Mr.Justice Ajit Bharihoke, Former Judge of the Delhi High Court (Mobile No.9650110057) is appointed as an Arbitrator to adjudicate the disputes between the parties.
- iii) The remuneration of the learned Arbitrator shall be as the parties may agree in consultation with the learned Arbitrator.
- 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 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.

The petition is disposed of in the above terms.

DINESH KUMAR SHARMA, J

MAY 1, 2024

rb/aj..