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

CNR No. DLHC010176142026

+ **ARB.P. 745/2026 & I.A. 11290/2026**

M/S TINNA RUBBER AND INFRASTRUCTURE LIMITED

.....Petitioner

Through: Ms. Rachna Maheshwari, Mr.
Mannu Bansal, Advocates with
Mr. Ravinder Kumar, AR.

versus

MR. PANKAJ GANDHI

.....Respondent

Through: Mr. Rohan Khanna, Advocate.

CORAM:

HON'BLE MR. JUSTICE OM PRAKASH SHUKLA

ORDER(ORAL)

09.09.2026

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1. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996¹ seeking appointment of an Arbitrator in terms of Clause 18 of the terms and conditions of sale printed on the reverse overleaf of the invoices raised by the Petitioner upon the Respondent.

2. Learned Counsel for the Petitioner submits that the parties had commercial transaction pursuant to which various invoices were raised upon to the Respondent. It is submitted that the terms and conditions of sale, including Clause 18 containing the arbitration agreement, formed part of the invoices. The Petitioner relies upon the invoices which were duly received and acted upon by the Respondent.

¹ "Act" hereinafter



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3. It is further submitted that the Respondent accepted the goods supplied and made part-payments against invoices without raising any contemporaneous objection to the terms and conditions or to the arbitration clause.

4. The Petitioner therefore submits that the Respondent having acted upon the invoices, cannot now contend that the terms printed on the reverse/overleaf thereof, were never accepted.

5. Learned Counsel for the Respondent, on the other hand, opposes the petition and submits that no arbitration agreement exists between the parties. It is contended that the invoices relied upon by the Petitioner were single-page invoices and did not contain any arbitration clause.

6. According to the Respondent, the terms and conditions relied upon by the Petitioner were contained on a separate set of papers, which were never supplied to or accepted by the Respondent and were never signed by him. It is therefore submitted that there was no mutual *ad idem* between the parties with regard to the arbitration.

7. In rejoinder, learned Counsel for the Petitioner submits that the aforesaid objection relates to the merits of the underlying commercial dispute and cannot defeat the present petition once the existence of the arbitration agreement is established.

8. It is submitted that the front and reverse overleaf of the invoices



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constituted parts of the same composite commercial document and that the Respondent, having received the invoices, accepted the goods and made part-payments without contemporaneous objections, cannot selectively dispute the applicability of the terms and conditions, including Clause 18.

9. I have considered the submissions advanced by learned Counsel for the parties and perused the material placed on record.

10. At this stage, the question before the Court is confined to the existence of the arbitration agreement between the parties. The arbitration clause relied upon is contained in Clause 18 of the terms and conditions of sales printed on the reverse/overleaf of the invoices.

11. The Respondent's principal objection is that the terms contained in Clause 18 of the agreement were never separately signed or accepted by him. However, mere absence of separate signature on the reverse/overleaf of the invoices, in the facts of the present case, does not by itself conclude the issue against the existence of an arbitration agreement.

12. At this Section 11 stage, the Court is not required to take a detailed adjudication of the parties' respective claims and counter-claims or to determine whether the material supplied was in fact defective or whether the parties were entitled to damages. Those are matters which, subject to the existence of the arbitration agreement, fall for determination by the Arbitral Tribunal.



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13. Having regard to the arbitration clause contained in Clause 18 of terms and conditions of sale forming part of the invoices, the Petitioner assessed that the Respondent received and acted upon the invoices and made part-payments there against and the material placed on record, this Court is *prima facie* satisfied that an arbitration agreement exists between the parties within the meaning of Section 7 of the Act. The objection raised by the Respondent regarding the absence of a separately signed arbitration agreement at this stage, does not persuade this Court to decline the request.

14. The Respondent's objection that the terms and conditions contained in Clause 18 of the agreement were not separately signed by him cannot, by itself be determinative of the issue.

15. In ***M/s Triom Hospitality v. M/s J.S. Hospitality Services Pvt. Ltd.***², the Division Bench of this Court, while considering the scope of examination at the referral stage, reiterated that section 7 does not mandate a separate signature on the arbitration clause and that the intention of the parties to submit their disputes to arbitration may be gathered from the written record, surrounding conduct and other documentary material. The Court further emphasised that where determination of the substantive validity of the arbitration agreement requires a deeper evidentiary examination, such issue is ordinarily to be left to the arbitral tribunal under Section 16.

16. In the present case, Clause 18 bears the arbitration clause and this Court is *prima facie* satisfied that the requirement of an arbitration



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agreement in writing is met and the question whether the said terms were in fact incorporated into and accepted as part of the transactions does not warrant a detailed evidentiary adjudication at this stage.

17. Accordingly, in the aforesaid circumstances, this Court finds no impediment in appointing a Sole Arbitrator.

18. Accordingly, Ms. Mansvini Jain, Advocate, (Mob. No. 8861489844) is appointed as a learned Sole Arbitrator to adjudicate the disputes arisen between the parties. The learned Sole Arbitrator shall enter upon the reference within two weeks from today.

19. The learned Sole Arbitrator will proceed to the arbitration proceedings subject to furnishing requisite disclosures as required under Section 12(2) of the Act within two weeks of entering reference.

20. The arbitration shall be carried under the rules and aegis of Delhi International Arbitration Centre (“DIAC”). The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.

21. It shall be open to the parties to raise all pleas, including objection as to arbitrability and jurisdiction, before the learned Sole Arbitrator who shall decide the same in accordance with law.

22. It is clarified that the observations made herein are only for the purpose of deciding the present petition under Section 11(6) of the



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Act. The learned Sole Arbitrator shall adjudicate the disputes independently and on their own merits, uninfluenced by any observations contained in the present order.

23. The Registry is directed to send a receipt of this order to Ms. Mansvini Jain, learned Arbitrator through all permissible modes including email.

24. Accordingly, the present petition is disposed of in the above terms.

OM PRAKASH SHUKLA, J

SEPTEMBER 9, 2026/pa