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

Date of decision: 7th May, 2024

+ **ARB.P. 427/2024**

G4S SECURE SOLUTIONS (INDIA) PVT. LTD. Petitioner
Through: Mr. Vikrant Arora, Adv.
versus

MATRIX CELLULAR (INTERNATIONAL)
SERVICES LTD. Respondent
Through: None.

**CORAM:
JUSTICE PRATHIBA M. SINGH**

Prathiba M. Singh, J.(Oral)

1. This hearing has been done through hybrid mode.
2. The present petition has been filed by the Petitioner- G4S Secure Solutions (India) Pvt. Ltd. under Section 11(6) of the Arbitration and Conciliation Act, 1996 (*hereinafter, 'Act'*), seeking appointment of an Arbitrator.
3. The case of the Petitioner is that it was engaged by the Respondent for guarding and security services in terms of the Security Services Agreement (*hereinafter, the 'agreement'*) dated 16th September, 2015 .
4. It is averred in the petition that the Petitioner duly provided services in terms of the agreement and raised invoices for the same. However, an amount of Rs.12,36,134.58/- remains outstanding on behalf of the Respondent. Further, on 24th June, 2020 the Petitioner sent a demand notice for payment of the outstanding amount with interest at 2% per month from 1st June, 2020, to the tune of Rs.17,36,654/-.



5. On 17th September, 2020 a notice invoking Arbitration was issued and according to Id. Counsel for the Petitioner the amounts due have not been paid.

6. On behalf of the Respondent, it is argued that the claims are barred by limitation in terms of Article 137 of the Limitation Act, 1963.

7. Considering that the notice invoking arbitration was issued on 17th September, 2020 and no reply was given by the Respondent, in the opinion of this Court, the claims would not be barred by limitation in view of the decision of the Id. Supreme Court in *In Re: Cognizance for Extension of Limitation [Suo Moto Writ Petition (C) No. 3 of 2020, Order dated 10th January, 2022]*.

8. In *In Re: Cognizance for Extension of Limitation (supra)*, the Supreme Court considered the question as to how limitation would be calculated in the context of the COVID-19 pandemic. The Supreme Court held as under:

“5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:

I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings.

II. Consequently, the balance period of limitation



remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.

IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.”

9. The Court has also considered the recent decision of the Supreme Court in the judgment-*M/s Arif Azim Co. Ltd. v. M/s Aptech Ltd. (2024 INSC 155)* wherein the Supreme Court has considered the law relating to the limitation period under Section 11 of the Arbitration and Conciliation Act, 1996. The Supreme Court has held as under:

“82. Thus, in ordinary circumstances, the limitation period available to the petitioner for raising a claim would have come to an end after an expiry of three years, that is, on 27.03.2021. However, in March 2020, the entire world was taken under the grip of the deadly Covid-19 pandemic bringing everyday life and commercial activity to a complete halt across the



*globe. Taking cognisance of this unfortunate turn of events, this Court vide order dated 23.03.2020 passed in **Suo Motu Civil Writ Petition No. 03/2020** directed the period commencing from 15.03.2020 to be excluded for the purposes of computation of limitation. The said extension of limitation was extended from time to time by this Court in view of the continuing pandemic. As a result, the period from 15.03.2020 to 28.02.2022 was finally determined to be excluded for the computation of limitation. It was provided that the balance period of limitation as available on 15.03.2020 would become available from 01.03.2022. Operative part of the order dated 10.01.2022 is extracted hereinbelow:*

“5. Taking into consideration the arguments advanced by learned counsel and the impact of the surge of the virus on public health and adversities faced by litigants in the prevailing conditions, we deem it appropriate to dispose of the M.A. No. 21 of 2022 with the following directions:

I. The order dated 23.03.2020 is restored and in continuation of the subsequent orders dated 08.03.2021, 27.04.2021 and 23.09.2021, it is directed that the period from 15.03.2020 till 28.02.2022 shall stand excluded for the purposes of limitation as may be prescribed under any general or special laws in respect of all judicial or quasi judicial proceedings.

II. Consequently, the balance period of limitation remaining as on 03.10.2021, if any, shall become available with effect from 01.03.2022.

III. In cases where the limitation would have expired during the period between 15.03.2020 till 28.02.2022, notwithstanding the actual balance period of limitation remaining, all persons shall have a limitation period of 90 days from 01.03.2022. In the event the actual balance period of limitation remaining, with effect from 01.03.2022 is greater than 90 days, that longer period shall apply.



IV. It is further clarified that the period from 15.03.2020 till 28.02.2022 shall also stand excluded in computing the periods prescribed under Sections 23 (4) and 29A of the Arbitration and Conciliation Act, 1996, Section 12A of the Commercial Courts Act, 2015 and provisos (b) and (c) of Section 138 of the Negotiable Instruments Act, 1881 and any other laws, which prescribe period(s) of limitation for instituting proceedings, outer limits (within which the court or tribunal can condone delay) and termination of proceedings.”

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*84. The effect of the above-referred order of this Court in the facts of the present case is that the **balance limitation left on 15.03.2020 would become available w.e.f. 01.03.2022. The balance period of limitation remaining on 15.03.2020 can be calculated by computing the number of days between 15.03.2020 and 27.03.2021, which is the day when the limitation period would have come to an end under ordinary circumstances. The balance period thus comes to 1 year 13 days.** This period of 1 year 13 days becomes available to the petitioner from 01.03.2022, thereby meaning that the limitation period available to the petitioner for invoking arbitration proceedings would have come to an end on 13.03.2023.”*

10. None appears for the Respondent today. On the last date, Id. Counsel for the Respondent had submitted that he would try to amicably resolve the dispute and seek instructions. However, there is no resolution of disputes as per Id. Counsel for the Petitioner and only a sum of Rs.7 -8 lakhs was offered to be paid by the Respondent. The Petitioner’s case is that a sum of more than Rs.12 lakhs is due since 2023. Thus, settlement has not worked



out. Accordingly, the matter is referred to arbitration and ***Ms. Leena Tuteja, Advocate (M:9810049061)*** is appointed as the Sole Arbitrator.

11. The arbitration shall take place under the aegis of the Delhi International Arbitration Centre (DIAC). The fee of the Arbitrator shall be paid as per Fourth Schedule under the 1996 Act as amended by the DIAC Rules, 2023.

12. List before the DIAC on 24th May, 2024.

13. Let a copy of the present order be emailed to Secretary, DIAC on the email id- delhiarbitrationcentre@gmail.com.

14. Accordingly, petition is disposed of. All pending applications are disposed of.

**PRATHIBA M. SINGH
JUDGE**

MAY 7, 2024/dk/ks