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

+ **CO.PET. 341/2016**

NOESIS CAPITAL ADVISORS

..... Petitioner

Through:

versus

ORAVEL STAYS PRIVATE LIMITED
& ORS.

..... Respondents

Through: Mr. Jayant Mehta, Sr. Adv. with Mr. Mayank Mishra, Ms. Vaishnavi Rao, Mr. Kshitij Parashar, Mr. Soham Goswami, Ms. Purna Sharma, Ms. Swati Mittal & Ms. Smiti Verma, Advs.

**CORAM:
HON'BLE MR. JUSTICE VIBHU BAKHRU**

ORDER
12.04.2022

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1. The petitioner has filed the present petition under Section 433 (e) of the Companies Act, 1956, *inter alia*, praying that directions be issued for winding up of the respondent no.1 company. The controversy between the parties arise in the context of an Agreement dated 03.07.2015, whereby the petitioner had agreed to perform certain services and in consideration of the said services, the respondent had agreed to pay fees, cost and expenses.
2. The petitioner claims that it had rendered the services to the respondent and had raised the invoices from time to time. Certain invoices were also paid. However, by a notice dated 25.01.2016, the respondent



terminated the Agreement, alleging certain deficiencies in service. The respondent also alleged that the petitioner had worked with its competitors and divulged certain confidential information.

3. The learned counsel for the petitioner states that the respondent had not raised any objection to the invoices raised at the material time, and it had accepted the services without any reservation.

4. The respondents have filed their reply to the present petition. They state that the disputes raised are required to be resolved through the dispute resolution mechanism as set out in the Agreement and are required to be referred to arbitration.

5. Considering the controversy in the present petition, this Court is unable to accept that the respondent company is liable to be wound up under Section 433 (e) of the Companies Act, 1956. Although the petitioner had raised invoices and its claims for the same may be substantial, however, the disputes raised by the respondents are required to be adjudicated and this Court finds it difficult to accept that the defences raised by the respondents are moonshine and are liable to be rejected summarily.

6. After some arguments, the learned counsel for the petitioner states that they are agreeable to accept the suggestion made by respondent no.1 and refer the disputes to arbitration.

7. In view of the above, the petition is disposed of with the following observations.

8. The petitioner would be at liberty to invoke the Arbitration Agreement. Considering that it's the respondent's case that the disputes are required to be referred to arbitration, it would be open for the petitioner to seek benefit of Section 14 of the Limitation Act, if in the event any defence



as to the limitation is raised by the respondent.

9. It is clarified that all rights and contentions of the parties are reserved.

VIBHU BAKHRU, J

APRIL 12, 2022

Ch

Click here to check corrigendum, if any