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

+ **ARB.P. 372/2016**

P.E. ANALYTICS PVT. LTD. Petitioner
Through: Mr Akshay Gupta, Advocate.

versus

**IYOGI TECHNICAL SERVICES
PRIVATE LIMITED** Respondent
Through: Mr Nakul Jain, Advocate.

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

ORDER
% **08.12.2016**

1. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act'), *inter alia*, praying that an Arbitrator be appointed to adjudicate the disputes that have arisen between the parties in relation to the licence agreement dated 14.11.2014.
2. The said agreement includes an arbitration clause which is set out below:-

"Dispute Resolution-In the event of a dispute between Client and P.E. Analytics, each party will identify one executive of at least vice-presidential rank to discuss the issues and attempt to resolve the dispute in good faith, Failing resolution by such mechanism, the issue shall be submitted to a mutually agreed sole arbitrator as per the Arbitration and Conciliation Act, 1996. The venue of the proceedings shall be New Delhi."

3. The learned counsel appearing for the respondent does not dispute the licence agreement or the existence of the arbitration clause. The only objection raised by the learned counsel for the respondent is that the present proceedings be stayed in view of the order passed by the Company Court (this Court) on 25.10.2016, whereby the respondent's application for holding a meeting of creditors to consider the scheme of arrangement has been allowed.

4. The learned counsel for the respondent has drawn the attention of this Court to paragraph 16 of the said order which records that the respondent company has 232 unsecured creditors and the meeting is directed to be convened to seek approval for the proposed scheme. The learned counsel further referred to paragraph 35 of the said order whereby the Court has directed that certain creditors who had filed a winding up petition before this Court to voice their concerns at the meeting of the creditors.

5. On a pointed query whether the respondent had admitted the amounts claimed by the petitioner, the respondent's counsel had responded in the negative. In view of the fact that the amounts claimed by the petitioner are not admitted by the respondent, it is clear that the said issue had to be adjudicated in accordance with the agreement between the parties. Indisputably, voting in the creditors' meeting would be in proportion to the amount due to a creditor. In the event, the same is disputed; the petitioner cannot without adjudication of its claims participate effectively in the said meeting to the extent of its disputed claims.

6. More importantly, a direction to hold a creditor's meeting is no reason

to deny any party recourse to his remedies.

7. Accordingly, with the consent of parties, it is directed that an Arbitrator be appointed under the Rules of the Delhi International Arbitration Centre (DIAC). The representatives of the parties shall appear before the Co-ordinator, DIAC on 06.01.2017 at 11:00 AM. The arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules.

8. The petition stands disposed of.

VIBHU BAKHRU, J

DECEMBER 08, 2016
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