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

+ **ARB.P. 780/2016**

R K SWAMY BBDO PVT. LTD Petitioner

Through: Mr I.C. Kumar, Advocate.

versus

INCITE HOMECARE PRODUCTS PVT. LTD Respondent

Through: Mr R.K. Sharma and Gurmehar,
Advocates.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **21.12.2016**

1. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act') praying that an arbitrator be appointed to adjudicate the disputes between the parties that have arisen in relation to an agreement dated 01.06.2012.
2. The said agreement includes an arbitration clause, which is set out below:-

“20. ARBITRATION

Any dispute, difference or question arising out of this agreement shall be settled amicably between the parties, failing which the same shall be referred to a sole arbitrator to be appointed with mutual consent of both the parties under The Arbitration and Conciliation Act, 1996 or any statutory amendments thereof and shall be referred to the Sole Arbitration of an Arbitrator nominated by mutual consent of both the parties. The award given by such Arbitrator shall be final and binding on all parties to this Agreement. In the event of an appointed arbitrator dying or being unable or unwilling to act as arbitrator for any

reason, on such death of the arbitrator or his inability or unwillingness to act as arbitrator, both parties shall appoint another person by mutual consent to act as arbitrator. Both parties agree to a fast track arbitration to be disposed within 90 days from the date of reference and the place of arbitration shall be Delhi.

In relation to any legal action or proceeding arising out of or in connection with this Agreement each party irrevocably submits to the jurisdiction of the Courts at New Delhi to the exclusion of all other courts.”

3. The petitioner issued a notice dated 21.10.2016 invoking the arbitration clause. However, he submits that the parties have been unable to mutually agree on appointment of the Arbitrator. In the circumstances, the arbitrator is required to be appointed.

4. Accordingly, with the consent of the parties, it is directed that the 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 18.01.2017 at 11:00 AM. The arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules.

5. The petition is disposed of.

VIBHU BAKHRU, J

DECEMBER 21, 2016
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