

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

% *Order delivered on: 18th May, 2016*

+ **O.M.P. (T) No. 44/2015**

M/S TRUE BLAZE CLOTHING Petitioner
Through Mr. Rajesh Kumar, Adv.

versus

ANUJ TYAGI Respondent
Through Ms. Priyanka Kathuria with
Mr.Sahil Mahajan, Advs.

CORAM:
HON'BLE MR.JUSTICE MANMOHAN SINGH

MANMOHAN SINGH, J.

1. The petitioner has filed the petition under Section 15 of the Arbitration and Conciliation Act, 1996 for appointment of a substitute sole arbitrator to decide the counter claim of the petitioner and claim of the respondent as per Memorandum of Understanding dated 2nd April, 2012 executed between the parties.

2. By order dated 24th April, 2014 this Court appointed Ms. Ragini Ahuja as sole Arbitrator in Arb.P. No. 138/2014 which reads as under:-

“Learned counsel for the respondent appears and states that he has no objection to this court appointing an independent and sole arbitrator to resolve the disputes between the parties arising out of their MOU dated 02.04.2012. The said agreement contains an arbitration clause in clause 9, which provides that in case disputes arose, which the parties are not able to resolve through negotiation within 30 days, the same shall be referred to a sole arbitrator to be mutually appointed by the parties. The

petitioner invoked the arbitration agreement on 10.05.2013. However, the parties have not been able to appoint an arbitrator mutually.

Accordingly, this petition is allowed. I appoint Ms.Ragini Ahuja, Adv., Mobile No.9871026252, as the sole arbitrator to adjudicate the disputes between the parties arising out of the aforesaid agreement. The parties agree that the fees of the learned arbitrator shall be paid in accordance with the schedule of fees prescribed by the Delhi International Arbitration Centre to be equally shared by the parties. Neither party shall seek nor be granted any undue adjournment by the learned arbitrator. The learned arbitrator shall render the award without any delay.

The parties shall appear before the learned arbitrator on 08.05.2014 at 4:30 p.m.

Petition stands disposed of.

A copy of this order be communicated to the learned arbitrator.”

3. First meeting regarding proceeding was conducted on 8th May, 2014 wherein the Arbitrator directed the parties to file the claim within 3 weeks and replication thereafter. The respondent filed its claim and reply on 6th August, 2014 and 15th October, 2014 respectively and no replication was filed by the respondent. On 5th June, 2015 the petitioner filed its counter claim and sought time to file supporting documents and reply by the respondent.

4. Thereafter, the counsel for the petitioner was informed by the Arbitrator by e-mail dated 7th August, 2015 that she was withdrawing herself since she was going out of country in September and would not be able to conduct arbitration proceedings. Hence, the present petition has been filed.

5. Both parties have given their consent in this regard. They also agreed that all the objections raised by any party would be considered by the sole Arbitrator as per its own merit who would continue the proceedings at the stage left by the earlier sole Arbitrator. The terms and conditions would remain the same. Ordered accordingly.

6. Accordingly, Justice P.K. Bhasin (Retd. Judge of this Court) (Mob. No.9871300032) is appointed as substitute sole Arbitrator to adjudicate the disputes arising out of the agreements in question between the parties.

7. Counsel for the petitioner is agreeable to take the file of the arbitration proceeding from the earlier sole Arbitrator and shall hand over the same to the new Arbitrator. Ordered accordingly.

8. The petitions are accordingly disposed of.

9. Copy of this order be given *dasti* to the learned counsel for the parties and a copy thereof be delivered to the learned Arbitrator.

(MANMOHAN SINGH)
JUDGE

MAY 18, 2016