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

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Judgment delivered on: 31.08.2017

+ **ARB.P. 364/2017**

ASHA TIWARI

..... Petitioner

versus

BPTP LIMITED

..... Respondent

Advocates who appeared in this case:

For the Petitioner : None.

For the Respondent : None.

CORAM:-

HON'BLE MR JUSTICE SANJEEV SACHDEVA

JUDGMENT

31.08.2017

SANJEEV SACHDEVA, J. (ORAL)

IA No.6520 /2017 (exemption)

Exemption is allowed subject to all just exceptions.

ARB.P. 364/2017

1. None appears for the petitioner. None was present even on first call.

2. The petitioner, by this petition under Section 11 of the Arbitration & Conciliation Act, 1996 (hereinafter referred to as 'the

Act'), seeks appointment of an Arbitrator.

3. The petitioner had invoked Arbitration clause by notice dated 30.01.2017. The notice refers to the Arbitration Clause, as mentioned in Agreement dated 18.07.2017.

4. The Arbitration Clause, as contained in Agreement dated 18.07.2017 reads as under:-

“All or any disputes arising out of or touching upon or in relation to the terms of this Agreement including the interpretation and validity of the terms thereof and the respective rights and obligations of the parties shall be settled amicably by mutual discussion failing which the same shall be settled through sole arbitration. The Arbitration shall be governed by the Arbitration & Conciliation Act, 1996 or any statutory amendments, modifications thereto for the time being in force. The arbitration proceedings shall be held at an appropriate location in New Delhi by a Sole Arbitrator who shall be appointed by the Managing Director of the seller and whose decision shall be final and binding upon the parties. The purchaser hereby confirms that he/she/it shall have no objection to this appointment even if the person so appointed, as a Sole Arbitrator, is an employee or Advocate of the seller/confirming party and the purchaser confirms that notwithstanding such relationship/connection the purchaser shall have no doubts as to the independence or impartiality of the said Sole Arbitrator. The Courts at Faridabad, Haryana and High Court of Haryana & Punjab at Chandigarh alone shall have the jurisdiction.”

5. Perusal of the Arbitration Clause shows that the parties have agreed for appointment of an independent Sole Arbitrator and that the Courts at Faridabad, Haryana and High Court of Haryana & Punjab at Chandigarh alone shall have jurisdiction.

6. In view of the judgment of the Supreme Court in **Indus Mobile Distribution Private Limited versus Datawind Innovations Private Limited And Others** (2017) 7 SCC 678, this Court would not have jurisdiction to entertain this petition.

7. The petition is accordingly dismissed with liberty to the petitioner to approach the competent court having jurisdiction.

8. *Dasti* under signatures of the Court Master.

SANJEEV SACHDEVA, J
AUGUST 31, 2017
'Sd'