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

+ **ARB.P. 89/2018**

R.V.SOLUTIONS PVT LTD

..... Petitioner

Through: Mr Roshan Santhalia, Mr Harsh
Agrawal and Mr Rahul Pruthi,
Advocates.

versus

DATAWIND INNOVATIONS PVT LTD

..... Respondent

Through: Ms Navneet Sehdev, Advocate.

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

% **03.04.2018**

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 'After Sales Service Agreement' dated 18.09.2014 (hereafter 'the Agreement'). The Agreement includes a dispute resolution clause, which reads as under:-

"25. Applicable and Governing Law, Dispute Resolution

(a) The provisions of this Agreement shall be governed by and construed in accordance with the Indian law.

(b) Any dispute, controversy or claims arising out of or relating to this Agreement or the breach, termination or invalidity thereof shall be resolved through an informal process of negotiation. The Parties shall each appoint an individual who is not actively involved with the performance of this Agreement to act as its representative

in negotiation of a manually agreeable settlement.

(c) Those disputes that cannot be resolved through informal negotiation as laid down herein above, shall be resolved by a binding arbitration in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996 by reference to a sole Arbitrator which shall be appointed by Customer. Judgment upon the award rendered may be entered and enforced in any court of competent jurisdiction as specified herein.

(d) The place of arbitration shall be New Delhi and any award whether interim or final, shall be made, and shall be deemed for all purposes between the parties to be made in New Delhi.

(e) The arbitral procedure shall be conducted in the English language and any award or awards shall be rendered in English. The procedural law of the arbitration shall be the Indian law.

(f) The award of the arbitrator shall be final and conclusive and binding upon the Parties. The Parties further agree (to the maximum extent possible and allowed to them) that such enforcement shall be subject to the provisions of the Indian Arbitration and Conciliation Act, 1996 and neither Party shall seek to resist the enforcement of any award in India on the basis that award is not subject to such provisions. Each party shall bear the expenses of Arbitration on its own.

The rights and obligations of the Parties under, or pursuant to, this Clause, including the arbitration agreement in this Clause, shall be under the exclusive jurisdiction of the courts located at New Delhi.”

2. In terms of the aforesaid clause, the petitioner caused a notice dated 27.07.2017 to be served on the respondent calling upon the respondent to resolve the disputes amicably. Thereafter, the petitioner sent a notice dated 09.11.2017 invoking the arbitration clause.

3. The learned counsel appearing for the respondent does not dispute the existence of the arbitration agreement or that the same had been duly invoked. The learned counsel appearing for the parties further request that the arbitrator be appointed by the Delhi International Arbitration Centre (DIAC) and the arbitration be conducted in accordance with its Rules.
4. With the consent of the parties, it is directed that an arbitrator be appointed by the DIAC to adjudicate the disputes that have arisen between the parties in connection with the Agreement. The arbitration shall be conducted under the aegis of DIAC and in accordance with its Rules.
5. The parties are directed to appear before the Coordinator, DIAC on 17.04.2018 at 11:00 AM for further proceedings.
6. The petition is disposed of in the above terms.

VIBHU BAKHRU, J

APRIL 03, 2018
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