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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 157/2018**
THERMO FISHER SCIENTIFIC INDIA PVT LTD.

..... Petitioner

Through: Ms.Jasmine Damkewala, Adv.

versus

EAST POINT DISTRIBUTION COMPANY (EPDC) & ANR.

..... Respondents

Through: None.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER
% **21.05.2018**

This petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') has been filed by the petitioner seeking appointment of a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the Distributorship Agreement dated 28.06.2013. The Distributorship Agreement was executed between Phadia India Private Limited and respondent no. 1. By the order dated 14.08.2013 passed in Company Petition No.175/2013 by the High Court of Delhi and order dated 20.09.2013 passed by the High of Bombay in CP. No. 330/2013, the said Phadia India Private Limited has amalgamated with the petitioner. The present petition has therefore, been filed by the petitioner as a successor-in-interest of Phadia India Private Limited.

The abovementioned Agreement contains an Arbitration Agreement between the parties in form of Clause 22.8 thereof, which is reproduced hereinunder:-

*“22.8 **Arbitration:** The Parties shall make endeavours to settle by mutual conciliation any claim, dispute, or controversy (“**Dispute**”) arising out of, or in relation to, this Agreement, including any Dispute with respect to the existence or validity hereof, the interpretation hereof, the activities performed hereunder, or the breach hereof. Any Dispute which cannot be resolved through such conciliation within fifteen (15) days or such extended period as Phadia and the Distributor may agree, shall be finally settled by a mutually agreed sole arbitrator in accordance with provisions of the (Indian) Arbitration and Conciliation Act, 1996 and any statutory modification or re-enactment thereof. The venue for Arbitration proceedings shall be at New Delhi. If the Parties cannot agree on a single arbitrator, then each Party shall appoint their own arbitrator and the two arbitrators so appointed will appoint a third arbitrator. The venue for arbitration proceedings shall be at New Delhi. The decision of arbitrator shall be final and binding on the Parties.”*

Disputes having arisen between the parties, the petitioner vide its notice dated 28.11.2017 called upon the respondent to amicably negotiate for a mutual settlement. The respondent did not respond to the same. The petitioner thereafter, vide its notice dated 20.12.2017 invoked the Arbitration Agreement and proposed the name of a Sole Arbitrator. Again receiving no response from the respondent, the present petition was filed by the petitioner.

Notice on the said petition was issued by this Court on 27.02.2018. The service report indicates that respondent no. 1, which is a Proprietorship concern of respondent no. 2, has been duly served.

None appears for the respondents.

As the Arbitration Agreement between the parties and due invocation thereof has not been denied by the respondent, I see no impediment in appointing a Sole Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the abovementioned Arbitration

Agreement. I appoint **Ms.Nidhi Mohan Prashar**, Advocate (R/o A-110, Basement, Defence Colony, New Delhi, Delhi 110024, Mobile: 9953899908) as a Sole Arbitrator. The Arbitrator shall give the disclosure statement under Section 12 of the Act before proceeding with the reference.

The petition is allowed in the above terms, with no order as to cost.

NAVIN CHAWLA, J

MAY 21, 2018/rv