

\$~12

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

+ **ARB. A. (COMM.) 28/2018**

HANS HERBAL Appellant

Through Mr.Ayush Negi, Adv.

versus

OM FOOD PRODUCTS(A GRAM UDYOG MANDAL)

..... Respondent

Through None.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **01.06.2018**

IA No.8072/2018 (Exemption)

Allowed, subject to all just exceptions.

ARB. A. (COMM.) 28/2018 & I.A. No.8071/2018

This appeal has been filed by the Appellant under Section 37 (2)(b) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the 'Act') challenging the Order dated 17.05.2018 passed by the Sole Arbitrator adjudicating the disputes that have arisen between the parties in relation to the Agreement/Memorandum of Understanding dated 25.04.2017.

By the Impugned Order, the Sole Arbitrator has rejected the application filed by the Appellant under Section 17 of the Act. The grievance of the Appellant is that while passing the Impugned Order, the Arbitrator has conclusively interpreted the terms of the Agreement and such

interpretation is incorrect.

I have considered the submission of the learned counsel for the Appellant, however, the same can be answered by directing the Sole Arbitrator to adjudicate the dispute that have arisen between the parties remaining completely uninfluenced by the interpretation to the Agreement/MOU put forward by the Sole Arbitrator in the Impugned Order. While considering the claims and counter claims of the parties, the Arbitrator shall adjudicate such dispute on the basis of evidence and material led before the Arbitrator by the parties and shall remain uninfluenced by any observation made in the Impugned Order.

Further grievance of the Appellant is that the Appellant had made the following prayer in the application;

“Direct the Respondent to submit their book of accounts of the company from 1st May 2017 to 2nd February 2018 to ascertain the actual damages, which have occurred due to breach of the Dealership agreement/MOU dated 25.04.2017.”

Learned counsel for the Appellant submits that the Arbitrator in his Impugned Order though mentions this prayer, has not considered the same.

Having considered the submission made by the learned counsel for the Appellant, it is directed that the Appellant shall be at liberty to file a fresh application seeking the abovementioned said prayer, if so advised, and any such application filed by the Appellant shall be considered by the Arbitrator remaining uninfluenced by any observation made by him in the Impugned Order.

The appeal along with pending application is disposed of, with no order as to cost.

Dasti.

NAVIN CHAWLA, J

JUNE 01, 2018/Arya