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

+ **ARB.P. 819/2016**

AYUSH PAPER PACKAGING PRIVATE LTD.

THROUGH ITS DIRECTOR

..... Petitioner

Through Mr Chandra Prakash, Advocate.

versus

M/S. ASSOTECH LIMITED & ANR.

..... Respondents

Through

CORAM:

HON'BLE MR. JUSTICE VIBHU BAKHRU

ORDER

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23.04.2018

1. None appears for the respondents although, the respondents have been served.

2. The petitioner has filed the present petition under Section 11 of the Arbitration and Conciliation Act, 1996 (hereafter 'the Act') praying that an arbitrator be appointed to adjudicate the disputes between the parties in relation to an agreement dated 08.05.2012 (hereafter 'the Agreement'). The Agreement includes an arbitration clause which is set out below:-

“14. That all the disputes or differences whatsoever shall be resolved by arbitration in accordance with rules of Arbitration and Conciliation Act, 1996 by a sole arbitrator whose decision will be binding on both the parties. Mr. Ajit Mishra s/o Shri S.N. Mishra r/o 71, Amrapali Apartments, Plot No. 56, I.P. Extension, Delhi - 110092 shall be the sole Arbitrator and the venue of arbitration shall be Delhi.”

3. It is seen that the arbitration clause provides for referring all the disputes to the named arbitrator. However, the petitioner states that the

named arbitrator cannot be appointed as the petitioner has filed a criminal complaint against M/s Investcare Pvt. Ltd. through its Director Mr Ajit Mishra. In this view, the named arbitrator is disqualified from acting as an arbitrator as there are disputes between the petitioner and the said arbitrator.

4. In view of the above, the present petition is allowed and Mr S.K. Tandon, Retd. ADJ, Delhi (Mobile No, 9811719888) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties in relation to the Agreement. This is subject to the arbitrator making the necessary disclosure under Section 12 of the Act and not being ineligible under Section 12(5) of the Act. The arbitrator shall fix his fee in consultation with the learned counsel for the parties and having regard to Schedule IV of the Act.

5. The parties are at liberty to approach the arbitrator for further proceedings.

6. The petition is disposed of.

VIBHU BAKHRU, J

APRIL 23, 2018

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