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

+ **ARB.P. 788/2018**

CHOPANKI PRESTRESS UDYOG

..... Petitioner

Through: Mr.Piyush Sanghi, Ms.Khushbu Sahu
Sanghi, Advs.

versus

FEDDERS LLOYD CORP. LTD.

..... Respondent

Through: Mr.P.S.Bindra, Ms.Rishika Arora, Advs.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

ORDER

% **26.11.2018**

1. 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 an Arbitrator for adjudicating the disputes that have arisen between the parties in relation to the Agreement dated 02.02.2011 executed between the parties.

2. Disputes having arisen between the parties, this Court by its order dated 08.04.2015 passed in Arb. P.No.669/2014, had appointed a Sole Arbitrator.

3. By an order dated 10.08.2018, the Arbitrator recused himself as he was of the opinion that the parties were not seriously prosecuting their claims and counter claims.

4. In my opinion, petition under Section 11 of the Act is not maintainable in such circumstances, however, at the request of the counsel for the petitioner, the same is treated as a petition under

Section 15 of the Act.

5. Counsel for the respondent has enquired from the earlier appointed Arbitrator and he has given his consent to continue with the appointment.

6. In view of the above, counsel for the petitioner prays for leave to withdraw the present petition. Both the counsels assure this Court that they would take up the proceedings expeditiously before the Arbitrator.

7. At their request, the arbitration proceedings will no longer be held under the aegis of the Delhi International Arbitration Centre (DIAC).

8. Counsel for the petitioner submits that the petitioner has deposited his share of fee with the DIAC. The petitioner shall be at liberty to apply to the DIAC for refund of the fee or portion thereof. DIAC shall consider such application compassionately and refund such portion of fee as may be considered just and proper by the DIAC in the facts of the present case.

9. The petition is disposed of with the above directions with no order as to costs.

NAVIN CHAWLA, J

NOVEMBER 26, 2018
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