

psv

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

COMMERCIAL ARBITRATION PETITION NO.670 OF 2019

Skechers South Asia Pvt. Ltd.	..Petitioner
Vs.	
Chirania Retails Pvt. Ltd.	..Respondent

Mr.Rohan Rajadhyaksha with Mr.Rajendra Barot, Ms.Apporva Gupta i/b.
M/s.AZB and Partners for Petitioner.
Mr.Anuj Desai i/b. Ms.Bijal Rathod for Respondent.

CORAM : G.S. KULKARNI, J.

DATE : 21st JUNE, 2019

P.C.:

Learned Counsel for the respondent on instructions fairly submits that after this Court had passed the order on 13 June 2019, the respondent has stopped business operations of the EBO in question and to that effect communication is already addressed today. Learned Counsel for the respondent states that the equipments will be returned to the petitioner within a period of three weeks from today. Statement is accepted.

2. Learned Counsel for the respondent on instructions would also submit that his client is desirous that the disputes which have arisen between the parties be referred for adjudication, by appointing a sole

arbitrator. Learned Counsel for the petitioner on instructions from his client also is not averse to the suggestions as made on behalf of respondent that the disputes be referred for arbitration. Learned Counsel for the petitioner would submit that qua the petitioner now what would remain for adjudication in this petition as filed under Section 9 of the Act would be prayer clause (b) and liberty be granted to the petitioner to agitate these prayers before the arbitral tribunal. Learned Counsel for the respondent also would not oppose this suggestion as made on behalf of the petitioner. This would however be without prejudice to whatever claims the respondent intends to make before the arbitral tribunal.

3. In view of the above consensus between the parties, the petition is required to be disposed of by referring the parties to an arbitral tribunal. Hence, the following order:-

ORDER

- (i) Mr.Azmin Irani, Advocate of this Court, is appointed as a sole Arbitrator to arbitrate the disputes and differences between the parties under the franchise agreement dated 1 September 2016;
- (ii) The learned prospective sole arbitrator, ten days before entering the arbitration reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the

Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of this petition with a copy to be forwarded to both the parties;

(iii) The petitioner is permitted to file an application under Section 17 of the Act to pray for reliefs in terms of prayer clause (b) or any other further reliefs.

(iv) The respondent is at liberty to make its claim as it desires;

(v) All contentions of the parties in that regard are expressly kept open.

(vi) At the first instance, the parties shall appear before the prospective arbitrator within 10 days from today on a date which may be mutually fixed by the prospective sole arbitrator;

(vii) The learned arbitrator shall endeavour to dispose of section 17 application as early as possible and within a period of 6 weeks from the date of filing of such application;

(viii) The learned arbitrator shall also endeavour to dispose of the arbitral proceedings as per the time specified under Section 29-A of the Act;

(ix) The fees payable to the arbitral tribunal shall be in accordance with the Bombay High Court (Fee Payable to the Arbitrators) Rules, 2018;

(x) Needless to observe that the observations as made in the order

dated 13 June 2019 passed by this Court are prima-facie. All contentions of the parties are expressly kept open.

(xi) The petition is disposed of in the above terms. No costs.

(xii) Office to forward a copy of this order to the learned Arbitrator on the following address:

“Prospect Chambers, 5th Floor, Opp.Thomas Cook, D.N. Road,
Fort, Mumbai.
Mobile – 9820577429.”

[G.S. KULKARNI, J.]