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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION (L) NO. 1000 OF 2019

Payal Devesh Mittle ...Petitioner
Versus
Anoushka Adya ...Respondent

Mr Simil Purohit, *with Mr Rohan Savant, i/b Waha Mukri, for the Petitioner.*
Mr KP Ravikumar, *with Ms Priyanka Kumar and Ms Roshni Vipani, for the Respondent.*

CORAM: G.S. PATEL, J.
DATED: 18th November 2019

PC:-

1. Vakalatnama and Affidavit in Reply to be filed in the Registry in the course of the day. Mr Purohit on behalf of the petitioner states that he has received a soft copy and taken instructions. He proceeds on denials.

2. The facts are simple. The petitioner and the respondent formed a Limited Liability Partnership called Dimensions Studios LLP. The respondent is said to be an advertising and marketing professional. The petition says that sometime in August 2014, the respondent approached the petitioner and her husband with a proposal to do business jointly. The petitioner's husband is himself is in advertising for nearly 20 years.

3. This is how the LLP came to be formed. The parties signed an Agreement dated 7th October 2014. A copy is at Exhibit "A". Clause 64 at page 34 contains a broadly-worded arbitration clause. It does not specify the strength of the tribunal, nor the venue or the seat. Parties however agree that the reference may be made to a sole arbitrator with the venue and the seat in Mumbai.

4. The business involved online advertising and marketing, i.e. advertising on various websites on the internet. This necessarily required payment to be made by one of the online methods. Mr Purohit states that the petitioner's husband's credit cards were used for this LLP business. He accepts that the credit cards were not used exclusively for the LLP business but maintains that there were charges on the two credit cards, one from Citibank, credit card No. 5498520511864832 and one from HDFC No. 4305700009223255 that were used for these online payments.

5. In addition there was a cash credit account No. 000530110000060 with the Bank of India.

6. The business itself also incurred statutory dues and tax liabilities.

7. The LLP agreement reflects an equal contribution from the petitioner and the respondent and an equal share in the remuneration and profits.

8. The execution of the LLP Agreement and its existence are not in dispute.

9. The reply, broadly stated, disputes the correctness of various charges. The respondent says that she is a young professional who has only recently completed her studies. She claims that many of the charges and expenses incurred are personal and could not have been debited to the LLP account.

10. In prayer clause 14(b) there is a statement of the amounts due. The prayer reads thus:

> "14 (b) that pending the hearing and final disposal of the arbitral reference and in addition to the said sum of Rs.22.50 lakhs, the respondent be ordered and directed to deposit in the account of LLP, her share of the such amounts as may be required for clearing the following dues:

(i)	Citibank Credit Card No. 5498520511864832	Rs.15,01,389.00
(ii)	HDFC Bank Credit Card No. 4305700009223255	Rs.6,76,619.00
(iii)	Cash Credit Account No. 000530110000060	Rs.12,57,192.40
(iv)	Service Tax/ Statutory Dues (Approx).	Rs.17,00,000.00

The total comes to Rs.51,35,200.40.

11. Mr Purohit also submits that the respondent has drawn an amount of Rs. 25.67 lakhs in excess and prayer clause (a) is directed towards that, i.e. for an order requiring her to bring that amount in.

12. I am not inclined to consider an interim order in terms of prayer clause (a).

13. However, as regards prayer clause (b), Mr Purohit in fairness submits that the prayer is for a 50% contribution of the aggregate liabilities under the four heads set out. He states that his own client will bring in remaining 50% so that these amounts can be paid. In arbitration parties can then be left with all contentions open to press their claims one against the others for recovery or adjustment. Given that the total of the prayer (b) figures is Rs.51,35,200.40, 50% works out to Rs.25,67,600.20.

14. Mr Purohit also submits that if any recoveries are being made for amounts due to the LLP, then both the respondent and the petitioner will bring those amounts in the LLP Bank of India account but should each be directed not to operate that account without specific leave of the arbitrator on an application made for that purpose.

15. These submissions are reasonable and are broadly accepted by the respondent who is personally present in Court and who gives instructions to Mr Ravikiumar, her Counsel. She however states that given her limited means today she requires some time in which to bring this amount in.

16. I am willing to grant that latitude and extend time to both sides till 6th January 2020. The manner in which this is to be done is set out below:

(a) By that date both sides will bring in 50% of the total of the amounts stated in terms of prayer clause (b), i.e. Rs. 25,67,600.20.

(b) This amount will be deposited in the Bank of India cash credit account of the LLP.

(c) The petitioner will clear the dues as set out in prayer clause (b) (but not any additional amounts) immediately thereafter. All dues as stated in prayer clause (b) will be paid online and a copy of the online payment receipts will be forwarded to the respondent and her Advocate at their respective e-mail addresses.

(d) All contentions between the parties as to mutual accounts or recoveries are expressly left open.

(e) Both sides also agree that they will sign the necessary cheques or online remittance forms to make the payments set out in prayer clause (b) as also for the tax payment challans.

(f) If either side recovers any dues from third parties and brings these into the LLP account, full particulars will be forwarded to the Advocates for the other side.

17. Parties agree on the name of Mr Gautam Ankhad, a learned Advocate of this Court, as a sole arbitrator to decide the disputes and differences between the parties between the parties under and arising from the LLP agreement dated 7th October 2014 and the LLP business.

(a) **Appointment of Arbitrator**: By consent, Mr Gautam Ankhad, learned Advocate of this Court, is hereby nominated to act as a Sole Arbitrator.

(b) **Communication to Arbitrator of this order**:

(i) A copy of this order will be communicated to him by the Advocates for the Applicant within one week from today of the order being uploaded.

(ii) In addition, within one week of this order being uploaded, the Registry will forward an ordinary copy of this order to the learned Sole Arbitrator at the following postal and email addresses:

Arbitrator/s	**Mr Gautam Ankhad, Advocate**
Address	C/o. DJ Khambata, 3rd Floor, Mulla House, 51, MG Road, Mumbai 400 001.
Mobile	+91 9324248844
Email	gautam.ankhad@gmail.com

(c) **Disclosure**: The learned Sole Arbitrator is requested to forward his statement of disclosure under Section 11(8) read with Section 12(1) of the Arbitration Act to the

Prothonotary and Senior Master of this Court, referencing this arbitration application, as soon as possible, and in any case sufficiently in advance of his entering upon the reference to his arbitration. That statement will be retained on the file of this application. Copies will be given to both sides.

(d) **Appearance before the Arbitrator**: Parties will appear before the learned Sole Arbitrator on such date and at such place as he nominates to obtain appropriate directions in regard to fixing a schedule for completing pleadings, etc.

(e) **Contact/communication information of the parties**: Contact and communication particulars are to be provided by both sides to the learned Sole Arbitrator within one week of this order being uploaded. The information is to include a valid and functional email id.

(f) **Interim Application/s**: Liberty to the parties to make an interim application or interim applications under Section 17 of the Arbitration & Conciliation Act, 1996 before the learned Sole Arbitrator. Any such application will be decided in such manner and within such time as the learned Sole Arbitrator deems fit.

(g) **Fees**: The arbitral tribunal's fees shall be governed by the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018.

(h) **Sharing of costs and fees**: Parties agree that all arbitral costs and the fees of the arbitrator will be borne by the two sides in equal shares.

(i) **Consent to an extension if thought necessary**. Parties immediately consent to a further extension of up to six months to complete the arbitration should the learned Sole Arbitrator find it necessary.

(j) **Venue and seat of arbitration**: Parties agree that the venue and seat of the arbitration will be in Mumbai.

(k) **By consent, additional interim order to govern**. Both sides also agreed not to transact any further business in the name of the LLP without specific leave of the learned Sole Arbitrator.

18. The petition is disposed of in these terms. There will be no order as to costs.

(G. S. PATEL, J)