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

+ ARB.P. 174/2019

BATA INDIA LIMITED

..... Petitioner

Through: Mr. Neeraj Grover, Adv.

versus

SUKESH CHATURVEDI

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

ORDER

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25.09.2019

This petition has been filed by the petitioner under Section 11 (6) of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator.

Despite service and also appearance on behalf of the respondent on May 16, 2019 and August 20, 2019, no-one is present today. Learned counsel for the petitioner has drawn my attention to the relevant clause regarding Dispute Resolution (Page 27 of the documents) which reads as under:

“If any claim, dispute or difference shall arise between the parties hereto arising out of and / or relating to and / or concerning and / or in connection with this Agreement and / or the policy document, the same shall be referred to sole arbitration.

The arbitration proceedings shall be conducted in accordance with the Arbitration and Conciliation Act, 1996 or any re-enactment thereof by a sole arbitrator nominated and appointed by the company.

The arbitrator nominated by the company shall be an independent advocate, having 10 years of experience as an practicing advocate. The Venue of such arbitration shall be only at New Delhi, India and the arbitration shall be conducted in the English language. The parties shall bear the arbitration expenses in equal proportion. The

award given by the arbitration shall be final and binding upon the parties.”

It is the submission of the learned counsel for the petitioner that in accordance with the stipulation, the petitioner had proposed the name of Sh. P.K. Saxena, Addl. District Judge (Retd.) as an Arbitrator. It appears, vide communication dated April 8, 2019, the respondent has objected to the appointment of Sh. Saxena as a Sole Arbitrator. In fact, they have also stated that in such a scenario, appropriate shall be for the petitioner to file a petition under Section 11 (6) of the Arbitration and Conciliation Act.

It is the submission of Mr. Grover that much before the receipt of reply, the petitioner had filed this petition.

From the above noted facts, it is clear that dispute has arisen between the parties, which need to be adjudicated by and Arbitrator to be appointed by invoking the provision of Section 11 (6) of the Arbitration and Conciliation Act.

Accordingly, the parties are relegated the Delhi International Arbitration Centre who shall appoint an Arbitrator from their panel. The appointment of the Arbitrator shall be regulated by DIAC Rules. The parties shall appear before the Coordinator, DIAC on October 18, 2019.

Let a copy of this order be sent to the Coordinator, DIAC and the respondent a well.

The petition stands disposed of.

V. KAMESWAR RAO, J

SEPTEMBER 25, 2019/jg