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

+ O.M.P.(I) (COMM.) 34/2020 and IA 1736/2020

PATHKIND DIAGNOSTICS PRIVATE LIMITED Petitioner

Through: Mr. Hemant Daswani, Advocate

versus

LIFEKIND HEALTH CARE

..... Respondent

Through

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

07.02.2020

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Learned counsel for the petitioner fairly submits that the present petition relates to claims with regard to action of the respondent under the Trade Mark & Copyright Law. He further submits that after filing of the present petition, he has come across a judgment of the Supreme Court in *A. Ayyasamy vs. A. Paramasivam & Ors., Civil Appeal Nos.8245-8246/2016, decided on 04.10.2016*, more specifically para 9, which reads as under :-

“In the present case, there is no dispute about the arbitration agreement in as much as there is a specific arbitration clause in the partnership deed. However, the question is as to whether the dispute raised by the respondent in the suit is incapable of settlement through arbitration. As pointed out above, the Act does not make any provision excluding any category of disputes treating them as non-arbitrable. Notwithstanding the above, the Courts have held that certain kinds of disputes may not be capable of adjudication through the means of arbitration. The Courts have held that certain disputes like criminal offences of a public nature, disputes arising out of illegal agreements and disputes relating to

status, such as divorce, cannot be referred to arbitration. Following categories of disputes are generally treated as non-arbitrable.

- (i). patent, trademarks and copyright;*
- (ii). anti-trust / competition laws;*
- (iii). insolvency / winding up;*
- (iv) bribery / corruption;*
- (v). fraud;*
- (vi). criminal matters*

Fraud is one such category spelled out by the decision of this Court where disputes would be considered as non-arbitrable.”

Learned counsel for the petitioner submits that, in view of the above judgment, the prayers made herein would not be ‘arbitrable disputes’ and therefore, the present petition is not maintainable. He thus seeks leave to withdraw the present petition. The petition is accordingly disposed of as withdrawn along with the pending application.

Needless to state that it is open to the petitioner to avail whatever other remedies that may be available to the petitioner, in accordance with law.

JYOTI SINGH, J

FEBRUARY 07, 2020

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