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

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Date of Decision: 10th July, 2023

+ ARB.P. 500/2023

M/S GDN ENTERPRISES PRIVATE
LIMITED

..... Petitioner

Through: Mr. Yash Dhyani, Mr. Mudit
Sharma and Mr. Parvez A. Khan, Advocates.

versus

M/S ILUMINAR MERCHANDISING PRIVATE
LIMITED

..... Respondent

Through: Mr. Deepanshu Jain and
Mr. Shaantanu Jain, Advocates.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH

JUDGEMENT

JYOTI SINGH, J. (ORAL)

1. Present petition has been filed by the Petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as the '1996 Act') seeking appointment of an Arbitrator to adjudicate the disputes between the parties.

2. The disputes between the parties to the *lis* arise out of a sub-Lease Agreement dated 01.05.2019 read with Equipment Lease Deed dated 01.05.2019 whereby Respondent had agreed to take on lease the industrial property No. H-10, Sector-63, Noida, Uttar Pradesh, for a period of five years with effect from 01.05.2019 including the lease of technical equipments. The lock-in period of the sub-Lease Agreement expired on 30.04.2022 and notice of termination was issued by the Petitioner on 31.01.2022 to the Respondent.

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3. On disputes having arisen, Petitioner invoked the Arbitration Agreement vide notice dated 31.01.2023 and called upon the Respondent to amicably resolve the disputes and differences, failing which an Arbitrator will be appointed by the Petitioner. Getting no favourable response, Petitioner filed the present petition. The Agreements between the parties contain an Arbitration Clause being Clause 8(f) and (g) of the sub-Lease Agreement and Clause 28 of Equipment Lease Deed, which are extracted hereunder, for ready reference:-

“8. DISPUTE RESOLUTION AND JURISDICTION

f. In case of any dispute or any difference between the Parties arising out of or in relation to this Sub Lease Agreement including dispute or difference in relation to interpretation or any of the provision of this Sub Lease Agreement, the Parties shall attempt to resolve the same through mutual discussions.

g. If the Parties fail to settle the dispute or difference amicably within a period of 15 (fifteen) days of the dispute, either Party may initiate arbitration under the provisions of the Arbitration and Conciliation Act, 1996 ("Arbitration Act"). The arbitration will be conducted by a Sole Arbitrator appointed by mutual consent of the parties in accordance with the provisions of the Arbitration Act. The arbitration proceedings shall be conducted in English and the venue of arbitration shall be Delhi. The decision of the arbitral tribunal shall be final and binding on the Parties and may be entered and enforced in any court of competent jurisdiction by either Party.

28. ARBITRATION

All disputes, claims, and questions regarding the rights and obligations of the parties hereto under the terms or in any manner touching or concerning or arising out of this agreement/deed whatsoever and howsoever shall be resolved by submission to binding arbitration of the sole arbitration of any person as appointed by the LESSOR/FIRST PARTY under the Arbitration & Conciliation Act, 1996 and the rules framed thereunder and/or any subsequent enactment/amendment thereof. The award of such Arbitrator shall be final and binding upon the parties to the present agreement. The venue/seat of arbitration shall be at New Delhi, India. Judgment upon an arbitration award may be entered in



courts at New Delhi, India and shall be binding, and final. The fees of the Sole Arbitrator and the arbitration proceedings shall be borne equally by the parties hereto.”

4. Notice was issued by this Court on 02.05.2023 to the Respondent. Mr. Deepanshu Jain, learned counsel enters appearance on behalf of the Respondent and on instructions submits that Respondent has no objection to the appointment of the Arbitrator to adjudicate the disputes between the parties in terms of the Arbitration Clauses.

5. Accordingly, Mr. Gajendra Giri, Advocate (Mobile No.9213934696), is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

6. The learned Arbitrator will proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosures under Section 12 of the 1996 Act. The learned Arbitrator shall be entitled to fee in accordance with Fourth Schedule of the 1996 Act or as may otherwise be agreed between the parties and the learned Arbitrator.

7. Petition stands disposed of in the above terms keeping all rights and contentions of the parties on merits open, to be decided by the learned Arbitrator, in accordance with law.

JYOTI SINGH, J

JULY 10, 2023/shivam