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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 94/2024

M/S CARLSBERG INDIA PRIVATE LIMITED Petitioner

Through: Mr. Sandeep Chilana, Mr. Abdullah
Tanveer, Ms. Vaishnavi Gupta, Advs.
(M: 6306265331)

versus

M/S SONA BEVERAGES PRIVATE LIMITED Respondent

Through: Ms. Vanika Gupta, Advocate.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

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13.02.2024

1. This hearing has been done through hybrid mode.
2. This is a petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 filed by the Petitioner- M/s Carlsberg India Pvt. seeking the constitution of an Arbitral Tribunal. The parties entered into an agreement for commercial arrangement in respect of licensing of trade marks and know how. The dispute between the parties arose due to alleged failure of fulfilling the obligations under the License Agreement, which was eventually terminated by the Petitioner.
3. There are two agreements between the parties, *firstly*, a License Agreement dated 31st May, 2018 along with its addendum and *secondly*, a Contract Brewing and Packaging Agreement dated 16th February, 2022. Both have separate arbitration clauses, which are as under:



“ License Agreement dated 31st May, 2018

26. Governing Law and Jurisdiction

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26.2 Any dispute, controversy or claim arising from this Agreement, or the breach, termination or invalidity of this Agreement, shall be finally settled by arbitration in accordance with Arbitration and Conciliation Act, 1996. **The number of arbitrators shall be 3.** The place of arbitration shall be New Delhi, India. The language to be used in the arbitral proceedings shall be English. The arbitral proceedings, including all documents produced in connection with the proceedings shall be confidential.

Contract Brewing and Packaging Agreement dated 16th February, 2022

25. Governing Law and Jurisdiction

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25.2 Any dispute, controversy or claim arising from this Agreement, or the breach, termination or invalidity of this Agreement, shall be finally settled by arbitration in accordance with Arbitration and Conciliation Act, 1996 along with its amendment from time to time. **The number of arbitrators shall be 1 who, shall be appointed by CIPL at its sole discretion.** The place of arbitration shall be Delhi, India. The language to be used in the arbitral proceedings shall be English . The arbitral proceedings, including all documents produced in connection with the proceedings shall be confidential”

4. As can be seen from the above two clauses, the first License Agreement contemplates for constitution of a three member Tribunal and in the second agreement of Contract Brewing and Packaging, the arbitration clause provides for appointment of a Sole Arbitrator.

5. The Petitioner has invoked arbitration and has nominated its



Arbitrator under the License Agreement vide letter dated 8th November, 2023. However, the Respondent has invoked arbitration in terms of the Packaging Agreement and seeks to nominate a Sole Arbitrator.

6. On the last date *i.e.* 23rd January, 2024, notice was issued to the Respondent. Ld. Counsel for the Respondent has entered appearance and submits that she has no objections if a Sole Arbitrator is appointed to adjudicate the disputes under both the agreements. Ld. Counsel for the Petitioner, however, submits that the references would have to be separate, as the two agreements are also distinct and different.

7. Bearing in mind the principles as envisaged in the decision of this Court in *Gammon India v. NHAI [Judgment dated 23rd June, 2020 in OMP 680/2011 (New No. O.M.P (COMM.) 392/2020) & I.A 11671/2018]*, it is deemed appropriate to therefore appoint a Ld. Sole Arbitrator to adjudicate the disputes under both the License Agreement and Contract Brewing and Packaging Agreement.

8. Accordingly, **Justice Badar Durrez Ahmed (Retd.) (M:7042205786)** is appointed as the Sole Arbitrator in this matter to adjudicate the disputes between the parties.

9. The fee of the Arbitrator shall be as per the Fourth Schedule of the Arbitration and Conciliation Act, 1996. Ld. Arbitrator may direct the parties for arrangement of venue and secretarial assistance, etc.

10. Petition is disposed of in these terms. All pending applications are also disposed of.

PRATHIBA M. SINGH, J.

FEBRUARY 13, 2024

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