



\$~2

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

ARB.P. 141/2024

M/S WEBKETCHUP PRIVATE LIMITED

..... Petitioner

Through: Mr. Karan Sinha, Advocate.

versus

MRS. HARSHA VILAS PARMAR & ORS.

..... Respondents

Through: None.

CORAM:

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

%

27.05.2024

Office report indicates that the respondents have been served by ordinary mode as also by e-mail sent by the Registry.

2. However, no one is present on behalf of respondents when the matter is called-out.
3. No reply has been filed by the respondents either.
4. In the circumstances, this court is satisfied that having been duly served in the matter, the respondents have chosen not to be represented. Accordingly, the respondents are set *ex-parte*.
5. By way of the present petition under section 11 of the Arbitration & Conciliation Act 1996 ('A&C Act'), the petitioner seeks appointment of a Sole Arbitrator to adjudicate upon the disputes that are stated to have arisen with the respondents from Financing & Management Agreement dated 06.04.2022. ('Agreement').
6. Notice on this petition was issued on 02.02.2024; however, as recorded above, no reply has been filed by the respondents.
7. Mr. Karan Sinha, learned counsel for the petitioner has drawn the attention of this court to clause 31 of the Agreement which comprises the arbitration agreement; and contemplates reference of disputes



between the parties to arbitration with the ‘seat’ of arbitration being at Delhi.

8. For completeness, it may be recorded that a separate territorial jurisdiction provision is also contained in clause 32 of the Agreement, which subjects the contract between the parties to the exclusive jurisdiction of courts at Delhi.
9. As per the record, the petitioner invoked arbitration *vide* Notice dated 11.12.2023, to which the respondents have not sent any reply.
10. Upon a conspectus of the averments contained in the petition and the submissions made, this court is satisfied that there is a valid and subsisting arbitration agreement between the parties; that this court has territorial jurisdiction to entertain and decide the present petition; and also that the disputes that are stated to have arisen between the parties, as set-out *inter-alia* in invocation notice dated 11.12.2023, do not appear *ex-facie* to be non-arbitrable.
11. In view of the above, learned counsel for the petitioner prays that this court may appoint an arbitrator; and then refer the matter for arbitration under the aegis of the Delhi International Arbitration Centre, New Delhi (‘DIAC’), keeping all factual and legal contentions of the parties open.
12. Accordingly, the present petition is allowed and **Hon’ble Ms. Justice Gita Mittal, former Chief Justice of the Jammu & Kashmir and Ladakh High Court (Cellphone No.: +91 9818000220)** is appointed as the learned Sole Arbitrator to adjudicate upon the disputes between the parties; with arbitration proceedings to be conducted under the aegis of the DIAC, in accordance with applicable rules.



13. The learned Sole Arbitrator would furnish to the parties requisite disclosures as required under section 12 of the A&C Act; and in the event there is any impediment to the appointment on that count, the parties are given liberty to file an appropriate application in this court.
14. The learned Arbitrator shall then proceed with the arbitral proceedings in accordance with the rules and regulations of DIAC and subject to arbitrator's fee and arbitration costs, as may be applicable.
15. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Sole Arbitrator on merits, in accordance with law.
16. A copy of this order be communicated *forthwith* to the Co-ordinator, DIAC, for information and compliance.
17. A copy of this order be communicated by the Registry *via* e-mail to the learned Sole Arbitrator, as also to learned counsel for the petitioner.
18. The Registry is directed to also e-mail a copy of this order to the respondents on their respective e-mail IDs, if any, available on record.
19. The petition stands disposed-of in the above terms.
20. Pending applications, if any, also stand disposed-of.

ANUP JAIRAM BHAMBHANI, J

MAY 27, 2024/ak