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

+ **O.M.P. (T) (COMM.) 9/2024**

**SAMSUNG INDIA ELECTRONICS PRIVATE
LIMITED**

Through: Mr. Rajeev
(9810466870)

..... Petitioner
Kumar, Adv.

versus

XPERT SOLUTIONS

Through: None.

..... Respondent

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **25.04.2024**

1. This hearing has been done through hybrid mode.
2. This is a petition filed by the Petitioner- Samsung India Electronics Private Ltd. under Sections 14(1)(b) and 15 of the Arbitration and Conciliation Act, 1996 (hereinafter referred to as 'the Act') for deciding on the issue of the Ld. Arbitrator's mandate and for appointment of an independent Arbitrator. The dispute between the parties arises out of an Authorized Service Centre Agreement (ASCA) and Spare Parts Agreements (SPA) for the Field Deploy Stock process which included supply/transfer of inventory/spare parts on orders. The dispute between the parties pertains to abnormalities in operations under the ASCA.
3. In this petition, due to repeated delays on behalf of the parties, the Id. Arbitrator has resigned.
4. Ld. Counsel for the Petitioner submits that the matter was at an advanced stage and cross examination of the Respondent was going on. He



prays that the Id. Arbitrator's mandate be restored.

5. On 6th February, 2024, no one appeared on behalf of the Respondent. Further, on the said date, notice was issued to the Respondent as also to the Id. Counsel. The Registry has reported that the notice through e-mail to the Respondent has been served. Even the Id. Counsel who was appearing in the arbitration proceedings has been served.

6. Today also however, there is no appearance on behalf of the Respondent.

7. The Id. Arbitrator, as is evident from the e-mails dated 24th July, 2023 and 26th July, 2023, had initially resigned due to the delay caused by the Petitioner and had withdrawn from the proceeding. Further, when the Id. Arbitrator was considering revival of the arbitration proceedings at the request of the Id. Counsel for the Petitioner who was suffering from ill-health, the Respondent objected to the same. Finally, vide e-mail dated 28th July, 2023, the Id. Arbitrator wrote the following e-mail:-

“I have considered the submissions of the both sides and also the precedents cited by both parties and having considered the legal position, I am of the view that I cannot continue to act as Arbitrator in the matter and cannot recall my earlier order. Accordingly, parties are best advised to take future steps as may be deemed necessary.”

8. The Id. Counsel for the Petitioner also submits that the Respondent has not paid any fee in this matter to the Id. Arbitrator and the Petitioner have already incurred expense of some of the fees paid.

9. In view of the fact that the delay by the Petitioner was due to ill-health of the Id. Counsel, the mandate of the Id. Sole Arbitrator Mr. Dharmendra



Rautray is restored.

10. The matter shall now proceed further from the stage when the Id. Arbitrator had withdrawn from the proceedings.

11. List before the learned Arbitrator on 10th July, 2024.

12. The petition is disposed of with all pending applications, if any.

13. A copy of this order be communicated by the Registry to the Respondent as also to the Id. Counsel for the Respondent. In addition, copy of this order be sent to the Id. Arbitrator ***Mr. Dharmendra Rautray (M: 9899988878)***.

PRATHIBA M. SINGH, J

APRIL 25, 2024

A/RKS