



\$~7

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

+

ARB.P. 193/2024

GOYAL EBIKES

..... Petitioner

Through: Mr. Sandeep Dash, Mr. Bilal Ikram &
Mr. Prakhar Gupta, Advocates (M-
9920427458)

versus

OKINAWA AUTOTECH PRIVATE LIMITED Respondent

Through: Mr. Anurag Bhatt and Mr. Lokesh
Pathak, Advs. (M- 8527084056)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

%

03.04.2024

1. This hearing has been done through hybrid mode.
2. This petition was filed by M/s. Goyal Bikes under Section 11(6) of the Arbitration and Conciliation Act, 1996 (*hereinafter*, '1996 Act'). Vide the present petition, M/s. Goyal Bikes seeks the appointment of an Arbitrator. As per the petition, an agreement for dealership relating to Okinawa products, dated 11th June, 2022, was entered into between M/s. Goyal Bikes and the Respondent- Okinawa Autotech Private Limited (*hereinafter*, 'OAPL') for undertaking retail sales and service of electric vehicles under the mark 'OKINAWA', manufactured and marketed by OAPL.
3. The dispute between the parties arises from OAPL's default in supplying goods. M/s. Goyal Bikes issued multiple emails dated 24th April, 2023, 19th July, 2023, 3rd August, 2023 etc., regarding the depleting stock at the dealership unit, but OAPL did not comply with the terms of the said dealership agreement. Given that there is an arbitration clause being clause



36.1 in the dealership agreement, M/s. Goyal Bikes invoked the arbitration clause vide communication dated 27th November, 2023.

4. Vide order dated 12th February, 2024, this Court issued notice in the present petition.

5. Today, Id. Counsel for OAPL has entered appearance and submits that the Respondent is willing to amicably resolve the disputes with M/s. Goyal Bikes. Accordingly, the matter is referred to the Delhi High Court Mediation and Conciliation Centre. The parties shall attempt to resolve the disputes.

6. The arbitration clause in the dealership agreement states as follows:

“36.1 In case of any dispute, claims or difference whatsoever arising between the Parties out of or relating to this Agreement or the validity or the breach of terms and conditions thereof, including all aspects governing the interpretation and enforcement of this Agreement and other documentation pursuant hereto, the same shall be settled amicably by the Parties. Falling such settlement, the same shall be referred to a sole Arbitrator, to be appointed by the Managing Director/Chief Executive Officer of OAPL for arbitration, as per the provisions of the Arbitration & Conciliation Act, 1996, as amended and the award passed by such sole Arbitrator shall be final and binding on the Parties.

36.2 It is a term of this Agreement that in the event of such an Arbitrator to whom the matter has been originally referred is unable to act for any reason including but not limited to health reason, the Managing Director/Chief Executive Officer of OAPL shall appoint another person to act as Arbitrator. Such person shall be entitled to proceed with the reference from the stage at which it was left by his predecessor.

36.3 The venue of Arbitration Proceedings shall be New Delhi. and shall be conducted in English. The clause 36.1, 36.2 and 36.3 shall survive even after



expiry/termination of the Agreement so long as the disputes if any amongst the PARTIES in relation to this Agreement are not resolved in terms of this clause.”

7. As per the above clause, the Managing Director of OAPL is to appoint the arbitrator. However, in view of the settled legal position under Section 11 of the 1996 Act, the Court is to appoint the arbitrator. Both the parties have no objections if the Court appoints the Sole Arbitrator.
8. **Ms. Priya Kumar, Advocate (Mob:9811355512)** is appointed as the sole Arbitrator in this matter to adjudicate the disputes between the parties.
9. List before the Delhi High Court Mediation and Conciliation Centre on 9th April, 2024 at 3 PM.
10. The Id. Sole Arbitrator shall enter reference on 15th July, 2024. In the meantime, if the matter is resolved, the parties shall inform the Id. Sole Arbitrator accordingly.
11. The arbitration shall take place under the aegis of the Delhi International Arbitration Centre (‘DIAC’). The fee of the Arbitrator shall be paid in terms of the 4th Schedule as amended by DIAC Rules, 2023.
12. Let a copy of the present order be emailed to Secretary, DIAC on email id- delhiarbitrationcentre@gmail.com.
13. The petition is disposed of. All pending applications are also disposed of.

PRATHIBA M. SINGH, J.

APRIL 3, 2024

Rahul/dn