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

+ **ARB.P. 233/2024**

CANON INDIA PVT LIMITED

..... Petitioner

Through: Mr. Pranshu Paul and Mr. Divyanshu
Jain, Advs. (M: 8269070908)

versus

SUMIT DIGITAL PRINTS THROUGH ITS PROPRIETOR MR

AMIT KASANA

..... Respondent

Through: Mr. Naresh Kumar & Mr. Brijpal,
Advs. (M: 9312838384)

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WITH

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ARB.P. 234/2024

CANON INDIA PVT LIMITED

..... Petitioner

Through: Mr. Pranshu Paul and Mr. Divyanshu
Jain, Advs.

versus

AMIT COLOR PRINTS THROUGH ITS PROPRIETOR MR

SUMIT KASANA

..... Respondent

Through: Mr. Naresh Kumar & Mr. Brijpal,
Advs.

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **10.04.2024**

1. This hearing has been done through hybrid mode.
2. These are two petitions filed under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter, '*the Act*') seeking appointment of an Arbitrator in terms of the Total Guarantee Agreement dated 24th July, 2016 entered into between Petitioner- M/S Canon India Pvt Limited and the Respondent - M/s Sumit Digital Prints and Total Guarantee Agreement dated 19th December, 2016 entered into between Petitioner- M/S Canon



India Pvt Limited and the Respondent - M/s Amit Color Prints. Under the said agreements, the Petitioner was to provide services with regard to maintenance of printing equipment to Respondents. The Agreements in both the petitions consists of an arbitration clause which is set out below:

“8. This agreement shall be governed by the Laws of India. All disputes or differences arising between the parties in respect of these terms and conditions shall be settled by arbitration under provisions of the Arbitration and Conciliation Act 1996 by reference to a Sole Arbitrator appointed with mutual consent. The venue of Arbitration shall be Delhi and language will be English.”

3. The Petitioner in the present matters had agreed to provide maintenance services for keeping the Multifunction Device in good working order/condition and to supply spares, black and colored toners, along with support services required for the maintenance of the Printing Equipment. The dispute in the present case arises out of non-compliance of obligations as per the said agreement. The Respondents are stated to have failed to pay the pending dues and monies apart from making some part payments. The Petitioner is stated to have sent notices dated 11th December, 2020 to both the Respondents i.e., M/s Sumit Digital Prints and M/s Amit Color Prints. However, the Respondents, in both the petitions, replied in the negative and failed to comply with the said notice. Thus, the present petitions have been filed by the Petitioner.

4. Notices were issued in these petitions on 22nd February, 2024 to the Respondent. Today, Mr. Naresh Kumar, Id. Counsel has entered appearance on behalf of the Respondents.

5. Ld. Counsel for the Respondents submits that in fact, the Respondent



No.1 has made all the payments of the invoices to a total amount of Rs.98,72,578/-. There is no outstanding amount, which is to be paid to the Petitioner, as per the Respondent No.1.

6. This is vehemently opposed by Id. Counsel for the Petitioner, who submits that in fact, cheques were given, which were dishonored and complaints under Section 138 of Negotiable Instruments Act, 1881 are also pending against the Respondents in other matters.

7. The statement, which has been handed over in Court dating from 1st November, 2019 to 15th March, 2024 by the Counsel for Respondents be also given to Id. Counsel for the Petitioner.

8. Id. Counsel for the Petitioner submits that in response to the legal notice dated 11th December, 2020, the Respondents did not take a stand that the payments have been made. Even in reply to the notice invoking arbitration dated 18th April, 2023, no such reply was given in the letter dated 16th May, 2023. Thus, he submits that the matter is liable to be referred to the arbitration.

9. Considering that there is a clear dispute between the parties as to the services provided, value of the same and the payments made by the Respondents, it is deemed appropriate to appoint a Sole Arbitrator in these matters to adjudicate the dispute between the parties.

10. Accordingly, **Mr. Ankit Virmani, Advocate (M:9920090570)** is appointed as the Sole Arbitrator in the matters. The arbitration shall take place under the aegis of the Delhi International Arbitration Centre (DIAC). The fee of the Arbitrator shall be paid as per Fourth Schedule under the Act as amended by the DIAC Rules, 2023.

11. Id. Counsel for the Petitioner submits that there are various disputes



between the Petitioner and Mr. Amit Kasana and Mr. Sumit Kasana. This is disputed by the Id. Counsel for Respondents, who submits that since the payment has been made, at least an effort should be made to reconcile the accounts.

12. Accordingly, the parties are referred to the Delhi High Court Mediation and Conciliation Centre for amicable resolution of disputes. A senior official of the Petitioner, who is well versed with the facts of both the cases, shall participate in the mediation proceedings along with the proprietors of the Respondents. Mediation proceedings shall be concluded by the Id. Mediator expeditiously, failing which the Id. Arbitrator shall enter reference on 24th July, 2024. The Mediation Centre shall conclude the mediation proceedings either way by 15th July, 2024.

13. List before the Mediation Centre on 25th April, 2024 at 3:00 pm.

14. List before the DIAC on 24th July, 2024.

15. Both the petitions are disposed of. Pending applications, if any in both the petitions, are also accordingly disposed of.

PRATHIBA M. SINGH, J.

APRIL 10, 2024/dk/bh