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

+ **ARB.P. 394/2023**

BUSINESSEX SOLUTIONS PRIVATE LTD Petitioner

Through: Mr.Varun Mehra and Mr.Arnya
Sahay, Advts.

versus

BUSINESSEX CYBIZ REALTY SERVICES PRIVATE LTD. &

ORS. Respondents

Through: Mr.Ankit Jain, adv. for R-2 and R-3.
Ms.Bhargavi Kannan, adv. for R-4.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER
19.01.2024

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1. By way of the present petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the 'A&C Act'), the petitioner seeks appointment of Arbitral Tribunal comprising of a Sole Arbitrator to adjudicate the disputes between the parties.
2. Briefly Stated, in the present case petitioner company i.e Businesssex Solutions Private Limited was duly incorporated under the provision of the Company Act 2013, wherein the Petitioner holds 51 % shareholding, Respondent No.4 holds 42.1% & Respondent No.5 holds 6.9%, respectively. The petitioner company is engaged in the business of networking by interconnecting the firms and the people associated



with them and also provides a marketplace for business consultation services bestowing the buyers & sellers an interactive platform to communicate with each other. Subsequently, Respondent No.2 & 3 approached the Petitioner and Respondent No. 4 & 5, with an offer to purchase shareholding in Respondent No.1 Company and after certain negotiations the Respondent No.2 & 3 jointly agreed to purchase 33.1% shareholding of the Respondent No.1 company wherein the petitioner was to sell 18.13% of its shareholding and the respondent no.4 was to sell 14.97%.

3. Pursuant to which a formal Shareholder agreement dated 20.05.2012 was executed between Petitioner and the Respondents whereby Respondent No. 2 & 3 acquired 33.10% shareholding of Respondent No.1 Company for the consideration of sum Rs.5,00,00,000 (Rupees Five Crores) out of which Rs.2,73,89,903 was payable to the Petitioner and balance Rs.2,26,10,097 was payable to the Respondent No.4. Further to which Respondent No.2 and 3 issued various cheques, which cumulatively amounts to Rs. 1,36,94,952 /- and Rs. 1,26,94,952 /-, respectively. However, all the issued cheques, in the terms of the SHA, were dishonoured.
4. Learned counsel for the petitioner submits that the parties had entered into a Consultancy Agreement dated 20.05.2012, which provides that disputes for the agreement shall be resolved through arbitration as per provisions of A&C Act. It further provides that the place of arbitration would be at New Delhi. The agreement contains an arbitration clause (clause 45) which says any dispute arising out of or in connection shall be referred to arbitration with the venue at Delhi.



5. Disputes having arisen between the parties, petitioner invoked arbitration vide notice dated 01.08.2022, issued under Section 21 of the A&C Act. At the outset, learned counsel for the petitioner submits that as per the instructions he does not want to proceed against respondents no.4 and 5 and they may be deleted from the array of the parties. Hence, respondents no.4 and 5 are deleted from the array of the parties
6. Learned counsel for the petitioner submits that in fact respondent no.1 is a company which is being represented by the petitioner and respondents no.4 and 5. Learned counsel also submits that in fact, the dispute is between the petitioner and respondents no.2 and 3.
7. Learned counsel for respondents no.2 and 3 has vehemently denied the contention of the petitioner and submits that there was a subsequent MOU which falsified the submissions of the petitioner. However, learned counsel for respondents no.2 and 3 states that the matter may be referred to the arbitration and a sole arbitrator may be appointed.
8. Learned counsel for the petitioner submits that the claim amount is more than Rs.3 crores. Learned counsel for respondents no.2 and 3 states that respondents that they also have the counterclaim.
9. Considering that both the parties have consented to the reference to the arbitral tribunal, the present petition is disposed of with the following directions:
 - i) The disputes between the parties under the said agreement are referred to the arbitral tribunal.
 - ii) As agreed by both the counsels for the parties, Justice Usha Mehra, Former Judge of this court (Mobile No.9818421144) is appointed as an Arbitrator to adjudicate the disputes between



the parties.

- iii) The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi hereinafter, referred to as the 'DIAC'). The remuneration of the learned Arbitrator shall be in terms of Schedule IV of the A&C Act or as the parties may agree.
- iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- v) It is made clear that all the rights and contentions of the parties, including as to the arbitrability of any of the claim, any other preliminary objection, as well as claims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
- vi) The parties shall approach the learned arbitrator within two weeks from today.

10. The petition is disposed of in the above terms.

DINESH KUMAR SHARMA, J

JANUARY 19, 2024

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