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

+ **ARB.P. 376/2024**

SONY INDIA PRIVATE LIMITED

.....Petitioner

Through: Mr Anupam Srivastava, Mr Dhairya
Gupta and Mr Deepak Jain, Advs.

versus

E-KHAREEDO INDIA LLP

.....Respondent

Through: Mr S Sethu Mahendran and Mr
Saurabh George, Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

12.07.2024

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1. This is a petition file under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of a Sole arbitrator to adjudicate the disputes between the parties.
2. The petitioner is a company incorporated under the Companies Act, 1956 having its registered office at A-18, Mohan Co-operative Industrial Estate, Mathura Road, New Delhi-110044 and is engaged in the business of manufacturing electronic products.
3. Respondent is a Limited Liability Partnership ('LLP') having its office at Supreme House No. 320, Valuvar Kottam High Road, Nungambakkam, Chennai, Tamil Nadu-600034.
4. The petitioner and the respondent entered into a Franchisee Agreement on 28.03.2018 wherein the respondent was granted franchisee rights to establish and operate retail showroom under the brand name Sony



Centre on a principal-to-principal basis and non-exclusive basis.

5. As per the petitioner, there are amounts due and payable by the respondent.

6. The Franchisee Agreement contains arbitration clause being Clause No. 21, which reads as under:

“Article 21- Arbitration

21.1 Any dispute or difference arising between the Parties shall be resolved amicably at the first instance.

21.2 Unresolved disputes, if any, shall be referred to the arbitration of a Sole Arbitrator to be nominated by the Franchiser and the proceedings shall be conducted in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and/or subsequent enactments, modifications in respect thereof.

21.3 Notwithstanding anything contained in this Agreement, the termination of the Agreement by the Franchiser would be final and not subject to any restraint order during the arbitration proceedings. The arbitration would be confined to monetary compensation only. Upon termination the Franchisee shall not be entitled to the Intellectual Property and goodwill of the Franchiser.

21.4 The venue of arbitration shall be at New Delhi.”

7. Since there were disputes between the parties, the petitioner invoked arbitration *vide* Legal Notice dated 16.03.2023.

8. Notice was issued and Mr Mahendran, learned counsel appeared for the respondent and sought time to file a reply.

9. Mr Mahendran, learned counsel for the respondent has handed over a copy of the written submission in Court and the same is taken on record. He



has only restricted his arguments to the extent that this court lacks territorial jurisdiction in view of Clause 24.1 of the agreement, which reads as under:

“24.1 The parties unequivocally agree that they waive off their right to sue or be sued, in respect of any matter, claim or dispute arising out of or in any way relating to this Agreement, at all places other than New Delhi.”

10. Mr Mahendran, learned counsel for the respondent relies on the judgment passed by a Coordinate Bench of this Court in ARB.P. 511/2023 titled “**Ved Contracts Pvt. Ltd. v. Indian Oil Corporation Ltd.**” decided on 04.03.2024 and more particularly para 10, 11 and 12 which read as under:

*“10. It is noticed that both the aforesaid judgements proceed on the principles laid down by the Supreme Court in **BGS SGS Soma JV vs. NHPC Limited**, which, in sum and substance holds that the correct approach is for the court to gather the intention of the parties, based upon on a conjoint reading of the terms of the contract; and only if there is no contrary indicia, the ‘venue’ mentioned in an arbitration clause would amount to being the ‘seat’ of arbitral proceedings.*

*11. In the present case, there is a ‘venue’ mentioned in clause 9.0.4.0, which the Arbitrator is entitled to change with the consent of the parties; with a clear contrary indication in Article 4.1 which specifically refers to the territorial jurisdiction of courts and says that notwithstanding any other court having jurisdiction to decide the question forming the subject matter of a suit, “... ..all actions and proceedings arising out of or relative to the contract (including any arbitration in terms thereof) shall lie **only** in the court of*



*competent civil jurisdiction in this behalf at **Mathura** (where this Contract has been signed on behalf of the OWNER) and **only the said Court(s)** shall have jurisdiction to entertain and try any such action(s) and/or proceeding(s) to the exclusion of all other Courts.”*
(emphasis supplied)

12. In view of the above, in the opinion of this court, the only conclusion is that the parties had agreed that the geographical location where the arbitral proceedings may be conducted would at New Delhi, or at any other place as may be decided by the Arbitrator with the consent of both parties; but that the arbitral proceedings would be anchored in the place where the contract was signed, viz. Mathura, Uttar Pradesh, as was expressly mentioned in the territorial jurisdiction clause.”

11. I have heard learned counsel for the parties.

12. In the present case, there is no *contrary indicia* in the agreement. Clause 21.4 mandates the venue of arbitration to be at New Delhi. Clause 24.1 also states that the parties waive off their right to sue at all places other than New Delhi. In addition, Mr Mahendran also states that the agreement was signed at New Delhi.

13. A combined reading of Clauses 21.4 and 24.1 of the agreement along with the fact that the arbitration agreement was signed in New Delhi, clearly shows that the parties had agreed to be bound by the territorial jurisdiction of this court and there is no contrary indication borne out from any of the clauses of the agreement.

14. For the said reasons, the petition is allowed. Since the parties are still having disputes between them, the following directions are issued:-



- i) Mr. Utkarsh, Advocate (Mob. No. 9871926153) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
 - ii) 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 the Fourth Schedule of the Arbitration & Conciliation Act, 1996.
 - iii) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
 - iv) 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/counter-claims on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
 - v) The parties shall approach the learned Arbitrator within two weeks from today.
15. The petition is allowed and disposed of in the aforesaid terms.

JASMEET SINGH, J

JULY 12, 2024

sr [Click here to check corrigendum, if any](#)