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

+ **ARB.P. 402/2024**

RAJESH SABHARWAL

.....Petitioner

Through: Mr. Bhuvnesh Sehgal, Mr. Shubham
Arora, Advs.

versus

DESEIN PVT. LTD.

.....Respondent

Through: Mr. Prashant Mehta, Mr. Ronak
Gupta, Ms. Simran Wason, Advs.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **11.09.2024**

1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator for adjudication of disputes between the parties.
2. The facts are that the petitioner was appointed as the Vice-President of the respondent on 29.07.2002. On 30.05.2019, the petitioner was appointed as an Advisor for a period of one year with effect from 01.06.2019, but the petitioner terminated his engagement as an Advisor on 08.07.2019.
3. Since there were disputes, the petitioner approached the NCLT by filing a petition under section 9 of Insolvency and Bankruptcy Code, 2016. The NCLT vide order dated 27.04.2021 dismissed the said petition on the ground of pecuniary jurisdiction.
4. The said order was assailed by the petitioner before the NCLAT in appeal which was dismissed on 08.08.2023.
5. The arbitration clause is contained in the letter dated 30.05.2019 which



reads as under:-

“.....

In case of any dispute or difference, the same shall be first mutually resolved by discussions and in the event of non-resolution, the same may be referred for arbitration as per Arbitration & Reconciliation Act 1996 with the subsequent amendment thereof, by either the party.

The courts in Delhi shall have the jurisdiction in case of any dispute.”

6. The petitioner issued notice invoking arbitration on 30.09.2023 and hence, the present petition.
7. Mr. Mehta, learned counsel does not oppose appointment of an arbitrator and states that all the issues raised in the reply may be left open for adjudication by the learned Arbitrator.
8. He also states that the issue of limitation and all other issues in the reply be also left open to be adjudicated by the learned Arbitrator.
9. The same is acceptable to Mr. Sehgal, learned counsel for the petitioner.
10. For the said reasons, the petition is allowed and the following directions are issued:-
 - i) Mr. Shyam Kumar Tandon, Additional District and Sessions Judge (Retd.) (Mob. No. 9811719888) 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’).



- iii) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.
 - 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/counter-claims and merits of the dispute of either of the parties, is left open for adjudication by the learned arbitrator.
 - vi) The parties shall approach the learned Arbitrator within two weeks from today.
11. The present petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

SEPTEMBER 11, 2024 / (MS)

Click here to check corrigendum, if any