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

+ **ARB.P. 425/2024**

CASA 2 STAYS PVT. LTD.

..... Petitioner

Through: Mr. Harish Malik, Adv.(VC)

versus

INTER LEAVES PRIVATE LIMITED

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

21.05.2024

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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 an Arbitral Tribunal comprising of a sole arbitrator, to adjudicate the disputes in between the parties.
2. It has been submitted that the applicant is a private limited company and the present application has been filed by Mr. Tushar Chawla, Authorized representative of the applicant company.
3. Learned counsel for the petitioner submits that the parties had entered into a "Service Agreement" dated 12.06.2019. The petitioner states that though the services were rendered. However, the respondents failed to make payment and kept on delaying the same. A legal demand notice dated 24.12.2019 was sent for the payment. However,



since the outstanding amount was not paid, the applicant on 02.01.2020 filed a case bearing C.P.(IB) No.694/KB/2020 read with Rule 6 under Section 9 of the Insolvency and Bankruptcy Code, 2016 seeking initiation of Corporate Insolvency Resolution Process (CIRP) against the respondent. The petition was disposed of by the NCLT, Kolkata vide order dated 28.08.2023 where it was held that there was a pre-existing dispute between the applicant and respondent and therefore the petition under IBC 2016 could not be sustained. Hereafter, the arbitration was invoked vide notice dated 02.02.2024 which was duly been served. The process in the present petition has also been undertaken. The affidavit of service has been filed. As per which the respondents have been served on the email ID Sanjay.sinha@oneplusfashion.com on 29.03.2024. In the affidavit, it has been submitted that the said e-mail Id is correct Email Id and email has not bounced back.

4. Petitioner has stated that the email ID of the respondent has been obtained from the respondent Company's Master Data. Therefore, the true copy of respondent's company Master Data has also been filed along with the affidavit of service.
5. It has also been submitted that the address of the respondent's company has also been taken from the service agreement entered into between the parties.
6. Clause-8(ix) of agreement contains the arbitration clause which provides that disputes with respect to the agreement shall be resolved through arbitration as per provisions of the A&C Act. It further provides that the place of arbitration would be at New Delhi.



7. Disputes having arisen between the parties, the petitioner invoked the arbitration clause vide notice dated 02.02.2024, issued under Section 21 of the A&C Act.
8. Since, the respondent is failed to appear and respond to the petition and that there an arbitration agreement exists between the party and arbitrable disputes have arisen, 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) Ms. Barkha Gupta, Former DHJS, Mobile No. 9910384753 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 fee rules of the DIAC Schedule 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.



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

DINESH KUMAR SHARMA, J

MAY 21, 2024/*Pallavi*