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

+ **ARB.P. 431/2024**

M/S CLIX CAPITAL SERVICES PVT LTD Petitioner

Through: None.

versus

M/S PAWAN HEATH CARE PRIVATE LIMITED & ORS.

..... Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

07.05.2024

1. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of Sole arbitrator for adjudication of disputes inter se the parties. The Parties had entered into Facility-Cum-Hypothecation Agreement along with Deed of Guarantee which was executed on 28.12.2021.
2. The present petition has been filed in consonance to the Clause 8.7 of the Facility-Cum-Hypothecation Agreement and Clause 10 of the Deed of Guarantee which enumerates that the incase of any disputes between the parties then the same needs to be settled or adjudicated through Arbitration with the Jurisdiction being at New Delhi.
3. Petitioner company filed a petition under Section 9 of the Arbitration and Conciliation Act, 1996 on 25.04.2023 before the Court of District Judge, (Commercial), New Delhi District, Patiala House, Court which



was dismissed.

4. The Petitioner invoked Arbitration vide Invocation notice dated 14.06.2023 and proposed the names of 4 Arbitrators, however the Respondent failed to give consent.
5. As per the office report the Respondent was served on the last date and there was no appearance on behalf of the Respondent, however adverse order was deferred. Today, also none has appeared on behalf of the parties.
6. The claim amount is around Rs.1,60,53,017/-.
7. In view of the fact that the present case entails an arbitrable dispute arising out of an arbitration agreement, 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) Mr. Karan Bharioke, Advocate, Mobile No.8826122888 is appointed as sole 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.
 - 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 petitioner shall approach the learned arbitrator within two weeks from today.

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

DINESH KUMAR SHARMA, J

MAY 7, 2024

Pallavi