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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Date of decision: 22nd May, 2024***
+ **ARB.P. 509/2024**

AGILUS DIAGNOSTICS LIMITEDPetitioner
Through: Ms. Namita Singh, Advocate.
versus

VIKASH KUMAR CHAUDHARYRespondent
Through: None.

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The present Petition under Section 11(6) of the Arbitration and Conciliation Act, 1996 (*hereinafter referred to as the "Act, 1996"*) has been filed on behalf of the petitioner seeking appointment of Arbitrator.
2. It is submitted that the petitioner is engaged in providing the service of pathological and other testing or analysis for the purpose of determination of the nature of deceased condition, identification of a disease or disorder in human beings.
3. The respondent approached the petitioner for providing pathology services and other services. The Agreement dated 28.05.2018 was executed between the petitioner and the respondent, wherein the respondent agreed to remit/hand over the invoiced amount to the petitioner and it was further agreed that delayed payment by the respondent shall attract interest @ 18% per annum from the invoice date. However, the respondent failed to adhere



to the terms of the payment Agreement dated 28.05.2018 and committed the breach of the terms of the said Agreement.

4. The petitioner terminated the Agreement dated 28.05.2018 *vide* Demand Notice dated 13.04.2023 and called for the outstanding amount of Rs. 10,78,020.25/-.

5. It is submitted that the Clause No. C.5 of the Agreement dated 28.05.2018 provides for dispute resolution through arbitration and, therefore, the petitioner had invoked the arbitration by Invocation Notice dated 15.05.2023 thereby invoking arbitration.

6. The respondent *vide* his Reply dated 29.05.2023 to the Invocation Notice dated 15.05.2023 giving his consent for appointment of Mr. Lalit Kumar to be appointed as the sole Arbitrator. Accordingly, Mr. Lalit Kumar was appointed as the sole Arbitrator with the consent of both the parties. However, the respondent withdrew his consent *vide* E-mail dated 29.01.2024 and consequently, the Arbitrator withdrew from office and terminated the arbitration proceedings. Therefore, the present petition has been filed on behalf of the petitioner seeking appointment of Arbitrator.

7. The respondent has been served through E-mail. Despite service, none is present on behalf of the respondent.

8. **Submissions heard.**

9. In view of the submissions made as well as Clause No. C.5 of the Agreement dated 28.05.2018 which provides for arbitration and the petitioner has raised the arbitrable disputes and without prejudice to the rights and contentions of the parties, the present petition is allowed. Ms. Justice Mukta Gupta, (Retd.), Mobile No. 9650788600, is hereby appointed as the Arbitrator to adjudicate the disputes between the parties.



10. The parties are at liberty to raise their respective objections before the Arbitrator.
11. The fees of the learned Arbitrator would be fixed in accordance with the Fourth Schedule of the Act, 1996 or as consented by the parties. 14. This is subject to the Arbitrator making necessary disclosure as under Section 12(1) of the Act, 1996 and not being ineligible under Section 12(5) of the Act, 1996.
12. The arbitration shall be conducted under the aegis of Delhi International Arbitration Centre, Delhi High Court.
13. The parties are directed to contact the Arbitrator within one week of being communicated a copy of this Order to them by the Registry of this Court.
14. Accordingly, the present petition is disposed of in the above terms.

(NEENA BANSAL KRISHNA)
JUDGE

MAY 22, 2024
S.Sharma