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

+ **ARB.P. 601/2023**

ST. JUDE MEDICAL INDIA PRIVATE LIMITEDPetitioner

Through: **Mr. Mirza Aslam Beg, Advocate**

versus

VIDARES HEALTHCARE PRIVATE LIMITED & ANR.

.....Respondents

Through: **Advocate (*Appearance not given*)**

CORAM:

HON'BLE MR. JUSTICE SUBRAMONIUM PRASAD

ORDER

02.12.2024

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1. It is stated that Respondent No.1 has been served. Learned Counsel enters appearance on behalf of Respondent No.1.
2. Learned Counsel for the Petitioner seeks permission to delete the name of Respondent No.2. The name of Respondent No.2 is deleted. Service is therefore complete.
3. This is a petition under Section 11(5) of the Arbitration & Conciliation Act, 1996 for appointment of an Arbitrator for adjudicating the disputes between the parties under the Distribution Agreement dated 01.04.2019 entered into between the Respondent and the Petitioner.
4. It is stated that the Petitioner raised various invoices in accordance with the Purchase Orders issued by the Respondents. It is stated that disputes have arisen between the parties regarding payments.
5. A notice invoking arbitration was issued by the Petitioner on



27.04.2022 under Clause 17.7 and Schedule 8 of the Distribution Agreement which contains a dispute resolution clause. Clause 17.7 reads as under:-

“17.7 Dispute Resolution

Any dispute, controversy or claim arising out of or relating to this Agreement that cannot be amicably resolved within thirty (30) days after receipt by one Party of the other Party’s request for such amicable settlement, shall be settled in accordance with the dispute resolution provisions in Schedule 8 of this Agreement.”

6. It is stated that the Respondent replied to the said notice claiming that the dispute is not arbitrable and refused to give consent to arbitration and therefore the Petitioner has approached this Court by filing the present petition for appointment of an Arbitrator under Section 11 of the Arbitration & Conciliation Act.

7. Notice has been issued in the matter. Respondent No.1 stands served. Respondent No.2 stands deleted. Schedule 8.1 of the agreement which contains an arbitration clause, reads as under:-

“8.1 Dispute Resolution

a. Any dispute, controversy or claim arising out of or relating to this Agreement, or the breach, termination or invalidity thereof ("Dispute"), shall be settled through friendly negotiations. If the parties fail to resolve the Dispute within sixty (60) days from the time a party first requested negotiations to settle the dispute, either of the parties may request an arbitration in accordance with the following clause by giving a notice to the other party in this regard.

b. All disputes, differences, controversies and questions directly or indirectly arising at any time under, out of,



or in relation to this Agreement (or the subject matter of this Agreement) including, without limitation, all disputes, differences, controversies and questions relating to the validity, interpretation, construction, performance and enforcement of any provision of this Agreement shall be finally, exclusively and conclusively settled by reference to binding arbitration under the Arbitration and Conciliation Act of 1996 by reference to a sole arbitrator appointed in accordance with the provisions of the Arbitration and Conciliation Act of 1996 and venue shall be in New Delhi.

c. Any arbitral award in an arbitration held pursuant to this clause may be entered in any court having jurisdiction in relation thereto or having jurisdiction over any of the parties or any of their assets or an application may be made to such court for a judicial recognition of the award for enforcement thereof.

d. All proceedings in any such arbitration shall be conducted in English.

e. The arbitration award shall be final and binding on the parties, and the parties agree to be bound thereby and to act accordingly.

f. The arbitration shall take place in New Delhi.

g. Nothing shall preclude either party from seeking interim or permanent equitable or injunctive relief, or both, from any court having jurisdiction to grant the same.

h. The provisions contained in this clause shall survive the termination or expiration of this Agreement.

i. The costs and expenses of the arbitration, including,



without limitation, the fees of the arbitration, and including, without limitation, the fees of the Arbitral Tribunal, shall be borne as may be determined by the Arbitral Tribunal.

j. The parties herein agree that pending the arbitration proceedings the parties shall continue to perform their respective obligations under this Agreement until the completion of the arbitration proceedings.

k. The arbitration shall be kept confidential and the existence of the proceeding and any element of it (including, but not limited to, any pleadings, submissions or other documents submitted or exchanged, any evidence and any awards) shall not without prior consent by both parties be disclosed beyond the parties to the arbitration and their representatives, the arbitral tribunal, and any person necessary to the conduct of the proceeding, except as may be lawfully required whether in judicial proceedings or otherwise in the normal course of business of the parties.”

8. A perusal of the abovementioned clause shows that the venue of the arbitration shall be New Delhi and that the parties shall submit themselves to the exclusive jurisdiction of the courts at Delhi.

9. Accordingly, Mr. Karan Mehra, Advocate, (Mob. No.9810221106) is appointed as a Sole Arbitrator to adjudicate upon the disputes between the parties.

10. The arbitration would take place under the aegis of the Delhi International Arbitration Centre (DIAC) and would abide by its rules and regulations. The learned Arbitrator shall be entitled to fees as per the Schedule of Fees maintained by the DIAC.



11. The learned Arbitrator is also requested to file the requisite disclosure under Section 12(2) of the Arbitration & Conciliation Act within a week of entering on reference.
12. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.
13. Needless to say, nothing in this order shall be construed as an expression of this Court on the merits of the contentions of the parties.
14. The present petition stands disposed of in the above terms along with pending application(s), if any.

SUBRAMONIUM PRASAD, J

DECEMBER 2, 2024

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