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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 642/2023**
AXALTA COATING SYSTEMS INDIA PRIVATE LIMITED.....
Petitioner

Through: Mr. Vivek Malik, Mr. Vivek Sinaha,
Advs.

versus

MCP MOTORS INDIA PRIVATE LIMITED Respondent
Through:

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
15.01.2024

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ARB.P. 642/2023

1. This is an application under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator to adjudicate the disputes between the parties.
2. The Arbitration Agreement is contained in the Supply Agreement dated 21.06.2021 and more particularly Clause 11 which reads as under:-

“11 Governing law, Jurisdiction and Dispute Resolution

This Agreement, its performance and any dispute or claim arising out of or in connection with it shall be governed by and construed in all respects in accordance with the laws of India.

All Disputes or claims arising out of or relating to this Agreement shall be subject to the exclusive jurisdiction of the courts at New Delhi to which the Parties irrevocably submit.

All disputes or differences whatsoever arising between the parties out of or relating to the construction, meaning and operation or effect of this Agreement or the breach thereof shall



be settled amicably. If, however, the Parties are not able to resolve them amicably within a period of thirty days or any longer period as agreed upon by the Parties from the date of commencement of such negotiation the same would be resolved by arbitration. The dispute may be referred to the arbitration by either Party after issuance of thirty days notice in writing to other, clearly mentioning the nature of the dispute/differences. Such arbitration shall be conducted by a Sole Arbitrator to be appointed by Parties hereto by mutual consent. The Arbitration and Conciliation Act, 1996 or any statutory modification thereof shall apply to the arbitration proceedings and the venue for the arbitration proceedings shall be New Delhi (India), All the arbitration proceeding shall be carried out in English language.”

3. As there were disputes, on 11.07.2023, the petitioner terminated the supply agreement with the respondent and invoked the arbitration on 29.08.2022.
4. Since the respondent was not appearing, this court directed publication in The Hindu, Kerala Edition and proceeded ex-parte against the respondent by the order dated 01.11.2023.
5. There is no appearance on behalf of the respondent even today. For the reasons as noted above, I am satisfied that the petition needs to be allowed.
6. The petition is disposed of with the following directions:
 - i. Mr. Akash Arora, Adv. (Mob. No. 9953303007) 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'). The remuneration of the learned Arbitrator shall be in terms of the Fourth Schedule of the Arbitration & Conciliation Act, 1996.
 - iii. The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
 - iv. 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.
 - v. The parties shall approach the learned Arbitrator within two weeks from today.
7. The petition is allowed and disposed of in the aforesaid terms.

JASMEET SINGH, J

JANUARY 15, 2024/NG

Click here to check corrigendum, if any