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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
+ **ARB.P. 643/2023**
AXALTA COATING SYSTEMS INDIA PRIVATE LIMITED

..... Petitioner

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

versus

HP CONTINENTAL BI-WHEELERS PRIVATE LIMITED

..... Respondent

Through:

CORAM:
HON'BLE MR. JUSTICE JASMEET SINGH

ORDER
15.01.2024

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1. This is a petition under Section 11(6) of The Arbitration and Conciliation Act, 1996 seeking appointment of arbitrator for adjudication of disputes between the parties, the parties entered into a Supply Agreement dated 11.09.2018 and the Clause 12.3 of the supply agreement contained the Arbitration Clause which reads as under:-

“12.3 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.”

1. The petitioner terminated the supply agreement by the legal notice dated 30.02.2020 and invoked the arbitration on 17.05.2023.
2. Mr. Malik, learned counsel for the petitioner states that the petitioner is entitled to the benefits of the judgment of the Supreme Court in ***Cognizance of Extension of Limitation, In RE***, (2022) 3 SCC 117 for condonation of delay due to Covid-19 Pandemic. Hence, the delay is condoned.
3. By the order dated 01.11.2023, the respondent was directed to be served by publication in The Hindu, Kerala Edition which has so been done.
4. There is no appearance on behalf of the respondent, therefore the respondent is proceeded ex-parte.
5. For the reasons noted above and since there is no appearance on behalf of the respondent, the petition needs to be allowed.
6. The petition is disposed of with the following directions:
 - i. Mr. Akash Arora, Advocate (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.

JASMEET SINGH, J

JANUARY 15, 2024/NG

Click here to check corrigendum, if any