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

+ **ARB.P. 629/2024**

HEROMOTO CORP.

.....Petitioner

Through: Ms. Sangeeta Sondhi, Advocate.

versus

M/S RADHEY AUTO AGENCIES & ANR.

.....Respondents

Through: Mr. Nishant Bishnoi, Advocate.

[M:-R/2081/2012, M:-
9971589629]

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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09.08.2024

1. The petitioner has filed this petition under Section 11 of the Arbitration and Conciliation Act, 1996 [“the Act”], for appointment of an arbitrator to adjudicate disputes between the parties under an agreement dated 15.06.2016 entitled “*Parts Distributor Agreement*” [“the Agreement”].

2. The Agreement contains an arbitration clause [Article 21], which provides for adjudication of disputes by a three member arbitral tribunal. New Delhi has been designated as the venue of arbitration and jurisdiction has also been vested in courts in New Delhi.

3. Disputes having arisen between the parties, the petitioner invoked arbitration by a notice dated 12.01.2024. As the said notice failed to elicit a response, the petitioner has filed this petition under Section 11 of the Act.



4. Pursuant to notice issued on 13.05.2024, Mr. Nishant Bishnoi, learned counsel, enters appearance on behalf of the respondent. He is at liberty to file his *vakalatnama* by tomorrow i.e., 12.08.2024.

5. Mr. Bishnoi states that he has been instructed to seek a reference to mediation, so that the parties can attempt to settle their disputes. In the alternative, he submits that the Court may appoint an arbitrator, leaving all rights and contentions of the parties open for adjudication.

6. Ms. Sangeeta Sondhi, learned counsel for the petitioner, is also agreeable to this course of action.

7. With the consent of learned counsel for the parties, the petition is disposed of with the following directions:

- a. The parties are referred to mediation under the aegis of *Samadhan*, Delhi High Court Mediation and Conciliation Centre, Shershah Road, New Delhi-110503.
- b. They will appear before the learned mediator on 20.08.2024.
- c. In the event the mediation proceedings are unsuccessful, the disputes between the parties will be adjudicated by arbitration under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi [“DIAC”]. DIAC is requested to nominate an arbitrator from its panel. Both parties state that given the quantum of disputes, the matter be referred to a sole arbitrator.
- d. The arbitration proceedings will be governed by the Rules of DIAC, including as to the remuneration of the learned arbitrator.
- e. The learned arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.



- f. DIAC is requested to defer the proceedings for a period of three months from today to enable the parties to resolve their disputes. If the mediation proceedings fail, either party may approach DIAC to nominate an arbitrator, and enter into the reference forthwith.
- g. It is made clear that all rights and contentions of the parties, including as to the maintainability and arbitrability of any of the claims, any other preliminary objections, as well as claims on merits of the disputes of either of the parties, are left open for adjudication by the learned arbitrator.
8. The petition stands disposed of with these directions.

PRATEEK JALAN, J

AUGUST 9, 2024

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