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

+ **ARB.P. 659/2024**

M/S HARI AUTOMOBILES

.....Petitioner

Through: Mr. Rajiv Talwar, Mr. Pushkar Karni
Sinha, Advs.

versus

M/S KRANTI AUTOMOBILES LIMITED

.....Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

10.09.2024

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1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of a Sole Arbitrator to adjudicate the disputes between the parties arising out of Contract dated 10.01.2020.
2. *Vide* the Contract, the respondent-company appointed the petitioner-firm as an authorized dealer of Kranti Automobiles Ltd., Nandi Three-wheelers for Delhi (West) territory.
3. The arbitration clause is Clause 11(b) of the Contract dated 10.01.2020, which reads as under:-

"Arbitration: If any dispute, difference, question or disagreement ("Dispute") at any time hereinafter arises between the parties relating to, in connection with or arising out of this Agreement, such Dispute shall be referred to any finally settled in



accordance with the Arbitration and Conciliation Act, 1996 ("the Arbitration Act") or any amendments, re-enactments or modification thereof by a sole arbitrator to be appointed by mutual consent. The sole arbitrator shall be a qualified independent arbitrator. The place of the arbitration shall be New Delhi and the language of the arbitration shall be English. Each of the parties shall bear its own costs of the arbitration. The arbitrator's fee shall be borne equally by the parties. Any such arbitral award shall be final, binding and enforceable in any Court in India. "

4. Since there were disputes between the parties, the petitioner invoked arbitration *vide* Legal Notice dated 06.03.2024.
5. The respondent has filed a reply, wherein the only objection of the respondent is that the offer letter dated 10.01.2020 was never signed by the petitioner and hence there is no concluded contract between the parties.
6. It is stated by Mr. Talwar, learned counsel for the petitioner that the petitioner had signed the LOI and sent it to the respondent and retained an unsigned copy. However, the parties have acted upon the LOI and the petitioner has also transferred about Rs. 22 lakhs to the respondent.
7. I have heard learned counsels for the parties.
8. Admittedly, the copy of the LOI placed on record does not show the signature of the petitioner.
9. The issue has been settled by a Coordinate Bench in ***Buildmyinfra Private Ltd vs. Gyan Prakash Mishra***, 2022 SCC OnLine Del 2196. The operative portion of the said judgment reads as under:-

"10. In the present case, the original of the Agreement has also been produced in Court. It prima facie bears the signature of the respondent at the foot of every page and also on the last page,



although he has signed on the last page at the place where the petitioner's representative was required to sign. Mr. Rana endeavours to submit that the Agreement was invalid as it does not contain the signature of the petitioner's representative. However, on this point, the judgment of the Supreme Court in Govind Rubber Limited v. Louis Dreyfus Commodities Asia Private Limited, (2015) 13 SCC 477 [paragraphs 15 and 16] cited by Ms. Majumdar, makes it clear that it is not necessary for the written document to be signed by all the parties, so long as the existence of an arbitration agreement can be culled out from the exchange of letters, telex, telegrams or other means of communication which provide a record thereof. So long as it can prima facie be shown that the parties are ad idem, the liability of a party cannot be negated only because the agreement has not been signed by him or her.

11. In the present case, the Agreement has indeed been signed by the respondent, who himself resists the appointment of an arbitrator thereunder. The non-signing of the Agreement by the petitioner, who asserts its validity, cannot in these circumstances come to the aid of the respondent when the respondent, in the exchange of communication through counsel, has acknowledged the relationship of employment and also acknowledged the existence of the Agreement itself. The contents of the legal notices sent on behalf of the respondent to the learned counsel for the petitioner indicate that the respondent's contention was not with regard to the existence of the Agreement but with regard to the validity of its substantive terms. For example, it was asserted on behalf of the respondent that the Agreement was not part of his employment letter or the condition of his employment but a one way document without consideration. It was also contended that the Agreement had lost its validity, but not that it had never been signed or executed by the respondent. This contention of Mr. Rana is therefore rejected.”



10. A perusal of the aforesaid paragraphs shows that the parties who have signed the agreement cannot be permitted to object to the non-signing by the other party especially when the other party i.e. the petitioner makes an averment that it was signed, accepted and agreed to by it.

11. For the said reasons, the petition is allowed and the following directions are issued:-

- i) Mr. Ankur Chibber, Advocate (Mob. No. 9810082847) 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').
- iii) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.
- iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- v) 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/counter-claims and merits of the dispute of either of the parties, including the fact of whether the petitioner has committed any illegality and made the building contrary to the sanction plan in an illegal manner is left open for adjudication by the learned arbitrator.
- vi) The parties shall approach the learned Arbitrator within two



weeks from today.

12. The petition is disposed of in the aforesaid terms.

JASMEET SINGH, J

SEPTEMBER 10, 2024/NG