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

+ **ARB.P. 746/2024**

JITENDER BANSAL PROPRIETOR OF DK ENTERPRISES

.....Petitioner

Through: Mr. Anish Roy, Mr. Chandrakant
Tiwari, Mr. Dinesh Kumar, Mr.
Dileep Rajpurohit and Mr. Girish
Agarwal, Advocates.

versus

SPG CONSUMER PRODUCTS PRIVATE LIMITED & ANR.

.....Respondents

Through: Mr. Bikram Singh Patel, Mr. Aditya
Raghav Bundila and Mr. Ravi
Agarwala, Advocates.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

16.07.2024

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1. This is a petition filed under Section 11(5) and (6) of the Arbitration and Conciliation Act, 1996 seeking appointment of the Sole Arbitrator to adjudicate the disputes between the parties.
2. The respondent had appointed the petitioner as Super Distributor of South and West Delhi vide Agreement dated 27.01.2022. As per the petitioner, the respondent had supplied edible oils which were of inferior quality and had failed quality tests of Food Laboratory of Department of Food Safety, GNCTD which was informed to the petitioner by the Department of Food Safety.
3. M/s Bedi Trading Company withheld the payments of the petitioner due to quality issue of the edible oil. Since there were disputes between the parties, the respondent invoked the bank guarantees of the petitioner.



4. The petitioner approached DLSA and applied for pre-institution mediation which was declared as non-starter. Thereafter, the petitioner filed suit bearing No. CS (COMM) 740/2023 before the Commercial Courts, District and Sessions Judge, Central District, wherein the respondent took an objection under Section 8 of Arbitration and Conciliation Act, 1996. On 22.01.2023, the said objection was allowed.

5. The petitioner on 18.12.2023 invoked the arbitration clause. The said clause reads as under:

“TERMINATION OF CONTRACT

This Agreement can be terminated by either of the parties by giving 60 days clear advance notice in writing.

Notwithstanding anything contained in any clause above, the appointment of the Super Distributor shall forthwith stand terminated if the super distributor is committing a breach of any of the terms and conditions of this agreement or acting in any way detrimental to the interest of SPG and provide any untrue information in application/document submitted for appointment of super distributor.

That on termination of this agreement, for any reason and in any manner whatsoever, the Super Distributor shall return to SPG within period of one month all unused material other than sold goods. The expenses for this transport would be borne by the Super Distributor.

SPG reserve the right to amend the policy on sales strategy, trade discount and damage and expiry etc.

All dispute will be settled through arbitrator appointed by SPG.

This agreement is only for sale of goods by SPG to the Super Distributor.”

6. Mr. Bikram Singh, learned counsel appears for the respondent and states that he has no objection if the petition is allowed.



7. For the said reasons, the petition is allowed. Since the parties are still having disputes between them, the following directions are issued:-

- vi) Ms. Yashmeet Kaur, Adv (Mob. No.9810788943) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
- vii) 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.
- viii) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- ix) 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 on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
- x) The parties shall approach the learned Arbitrator within two weeks from today.

8. The petition is allowed and disposed of in the aforesaid terms.

JASMEET SINGH, J

JULY 16, 2024

SSC