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

+ **ARB.P. 836/2024**

ECOM EXPRESS LIMITED

.....Petitioner

Through: Ms. Mehak Kalra, Mr. Lalit Besoya,
Mr. Ronmi Risom, Advs.

versus

FIT INDIA ORGANIC PRIVATE LIMITED

.....Respondent

Through: Ms. Shivangi Rana, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

06.11.2024

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1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator to adjudicate the disputes between the parties.

2. The facts are that the petitioner and the respondent entered into a Courier Services Agreement dated 25.06.2021 containing the arbitration clause as clause 17 which reads as under:

“17. DISPUTE RESOLUTION

a. Any and all disputes, claims, differences arising out of or in connection with this Agreement and the Schedule(s) attached hereto or the performance of this Agreement shall be settled by Arbitration.

b. Through the present Agreement, SHIPPER shall refer the Arbitration to a Sole Arbitrator who shall be mutually appointed by the Parties who will be an independent person not below the designation of a Retd. District Judge / Additional District Judge /



Advocate, whereby, the Other Party shall provide concurrence / objection within stipulated time of 10 days, after the expiry of said period and thereafter, on issuance of acceptance by the Arbitrator, such appointment shall be binding upon both the parties and the appointed Arbitrator shall conduct the Arbitration Proceeding as per the Act.

c. The decision (Interim Award / Award) of the Arbitrator shall be binding upon the Parties to this Agreement. The Arbitration shall be held in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and any statutory amendments thereof. The venue of the Arbitration shall be in Haridwar. The proceedings of the Arbitration Tribunal shall be conducted in English language. Each Party shall bear cost of representing its case before the Arbitrator. The Costs and charges of Arbitrator to be shared equally by the parties. The Parties shall attempt to mutually resolve all disputes arising out of or in relation to this Agreement, including any question regarding its existence, validity or termination within 15 days of being brought to its attention ("Consultation Period") and if any such dispute is not resolved, the dispute shall be settled by arbitration governed by the provisions of Arbitration and Conciliation Act, 1996. The Parties shall mutually appoint a sole arbitrator for arbitration proceedings within 15 days following the expiry of Consultation Period. If the Parties are not able to agree on a sole arbitrator, either of the Parties shall be entitled to approach the Court for the appointment of the arbitrator in terms of the Arbitration and



Conciliation Act, 1996 (including the amendments thereto). The venue and seat of Arbitration shall be New Delhi and the language of arbitration shall be English. A dispute shall be deemed to have arisen when either Party notifies the other Party in writing to that effect. The Arbitral award passed by the Arbitrator shall be in writing and shall be final and binding on the Parties”

3. Since there were disputes between the parties, the petitioner invoked arbitration *vide* legal notice dated 12.03.2024 and thereafter filed the present petition.

4. The respondent has filed its reply wherein the objections are concerning factual matrix.

5. Ms. Rana, learned counsel appears for the respondent and states that she has no objection in case the matter is referred to arbitration and all the contentions and counter-claims of the respondent are left open.

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

- i) Mr. Rajat Manchanda, Advocate (Mob. No. 9899850805) 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, are left open for adjudication by the learned arbitrator.
- vi) The parties shall approach the learned Arbitrator within two weeks from today.

NOVEMBER 6, 2024/sp

JASMEET SINGH, J

Click here to check corrigendum, if any