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

+ **ARB.P. 857/2024**

KOTAK MAHINDRA PRIME LTDPetitioner

Through: Mr. S.K. Sen, Advocate.

versus

ABHAY SHARMARespondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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28.08.2024

1. The petitioner has approached this Court under Section 11 of the Arbitration and Conciliation Act, 1996 [“the Act”], for appointment of an arbitrator to adjudicate disputes under an agreement dated 31.05.2023 [“the Agreement”].
2. The agreement contains an arbitration clause [Clause 31], which provides for adjudication of disputes by a sole arbitrator. Schedule I to the Agreement provides that the arbitration proceedings will be held in Delhi.
3. Disputes having arisen between the parties, the petitioner invoked arbitration by a communication dated 07.02.2024, to which no response was received. It has therefore filed this petition under Section 11 of the Act.
4. Notice was issued in this petition on 01.07.2024. The Registry reports that the respondent has been duly served by ordinary process and



WhatsApp. Affidavit of service has also been filed, by learned counsel for the petitioner, showing service by way of e-mail, speed post, courier and dasti as well.

5. As the respondent has not entered appearance despite service, the petition is taken up for consideration. At this stage, the Court is only required to examine the *prima facie* existence of the arbitration clause. I am satisfied on the basis of documents placed on record that the agreement contains an arbitration clause. The respondent has also not entered appearance to controvert this contention.

6. The petition is therefore allowed, and disputes under the agreement dated 31.05.2023 are referred to Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi-110503 [“DIAC”]. DIAC is requested to nominate an arbitrator from its panel. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.

7. The arbitration proceedings will be governed by the Rules of DIAC, including as to the remuneration of the learned Arbitrator.

8. It is made clear that all rights and contentions of the parties are left open for adjudication by the learned Arbitrator.

9. As the respondent has not appeared in these proceedings, notice of the arbitration proceedings will be served upon him in accordance with the DIAC Rules.

10. The petition stands disposed of in these terms.

PRATEEK JALAN, J

AUGUST 28, 2024//“Bhupi”/