



2024:DHC:5859



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**+ **ARB.P. 900/2024**

ZIMMER INDIA PRIVATE LIMITEDPetitioner
Through: Ms. Urvika Suri and Ms.
Aastha Mathur, Advs.

versus

PINNACLERespondent
Through: None

CORAM:
HON'BLE MR. JUSTICE C.HARI SHANKAR

JUDGMENT(ORAL)

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05.08.2024**ARB.P. 900/2024**

1. By two distributorship agreements dated 25 June 2017, amended by addenda dated 20 February 2018, the petitioner and Biomet Orthopaedic India Pvt Ltd¹ appointed the respondent as their distributor to distribute their products. Subsequently, the petitioner and Biomet amalgamated, and the amalgamation was sanctioned by the National Company Law Tribunal by order dated 12 September 2018.

2. The distributorship agreements between the petitioner/Biomet and the respondent contained identical arbitration clauses. The reference schedule to the distributorship agreements envisaged, in

¹ "Biomet" hereinafter



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Clause 10, arbitration as the mode of resolution of the disputes, seated in New Delhi, on the parties appointing a mutually acceptable sole arbitrator.

3. The petitioner addressed a notice to the respondent on 16 January 2023, invoking the arbitration clause and calling on the respondent to respond.

4. The respondent did not respond, as a result of which the petitioner has invoked the jurisdiction vested in this Court under Section 11(6) of the Arbitration and Conciliation Act, 1996².

5. Despite service having been effected on the respondent and opportunities having been granted, no reply has been filed to the present petition. The respondent is also absent when the matter is called out for hearing.

6. In view of the limited scope of examination by the Section 11(6) Court, following the recent judgment of the Supreme Court in *SBI General Insurance Co Ltd v. Krish Spinning*³, I do not deem it necessary to adjourn this matter awaiting the respondent's appearance, as there is indisputably an arbitration agreement between the petitioner and the respondent.

7. Accordingly, the disputes between the parties stand referred to

² "the 1996 Act" hereinafter

³ 2024 SCC OnLine SC 1754



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arbitration.

8. This Court appoints Mr. Jayesh K Unnikrishnan, Advocate (Tel: 8800641010) as the arbitrator to arbitrate on the disputes between the parties.

9. The learned arbitrator shall be entitled to fees in consultation with the parties. The arbitrator is also requested to file a requisite disclosure under Section 12(2) of the 1996 Act within a week of entering on reference. All questions of fact and law shall remain open to be adjudicated in the arbitral proceedings.

10. The petition stands allowed to the aforesaid extent.

C.HARI SHANKAR, J

AUGUST 5, 2024

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Click here to check corrigendum, if any