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

+ **ARB.P. 1150/2022**

GUJARAT FLUOROCHEMICALS LTD.Petitioner
Through: **Mr. Akshay Singh, Advocate.**

versus

NEW BRIDGE BUSINESS CENTRE PVT. LTD.Respondent
Through: **None.**

CORAM:
HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER
% **10.09.2024**

1. By way of this petition under Section 11 of the Arbitration and Conciliation Act, 1996 ["the Act"], the petitioner seeks appointment of an arbitrator to adjudicate disputes between the parties under a "Management Agreement" dated 08.12.2007.
2. The agreement contains a dispute resolution clause [Clause 18] which provides for adjudication of disputes by a three-member arbitral tribunal. It is also provided that the arbitration would be at New Delhi.
3. Disputes having arisen between the parties, the petitioner, through counsel, addressed a legal notice dated 04.01.2022, to the respondent invoking arbitration and appointing Hon'ble Mr. Justice Rang Nath Pandey, former Judge, Allahabad High Court as its nominee arbitrator on the arbitral tribunal. The respondent did not reply to this notice, as a result of which the petitioner has filed the present petition under Section



11 of the Act, seeking constitution of the tribunal.

4. Notice was issued in this petition on 01.11.2022. An attempt has been made to serve the respondent at its registered office and as also by publication. The order of the learned Joint Registrar dated 29.08.2024, records that publication has been effected in August, 2023, November, 2023 and January, 2024.

5. As the respondent has not appeared despite service, the petition is taken up for hearing.

6. At the stage of Section 11, the Court is only required to examine *prima facie* whether an arbitration clause exists. Having regard to the material placed on record in particularly Clause 18 of the agreement, I am satisfied that an arbitration agreement exists between the parties.

7. As the agreement provides for a three-member arbitral tribunal, the Court is required at this stage to appoint an arbitrator in lieu of respondent's nominee. Mr. L. K. Gaur, former District Judge [Tel: 8800881765] is therefore appointed as the arbitrator for this purpose. The two learned arbitrators are requested to nominate the presiding arbitrator in accordance with law and may proceed with the arbitral proceedings upon due constitution of the tribunal.

8. The arbitral proceedings will be conducted under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shreshah Road, New Delhi – 110503 [“DIAC”] and will be governed by the Rules of DIAC, including as to remuneration of the learned arbitrator.

9. The learned arbitrators are requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.

10. As the respondent has not entered appearance in these proceedings,



it is made clear that the respondent is to be served afresh, in accordance with DIAC Rules, in the arbitration proceedings.

11. Needless to say, all rights and contentions of the parties, including arbitrability, maintainability of the claims and on merits, are left open for adjudication by the learned arbitrator.

12. The petition stands disposed of with these observations.

PRATEEK JALAN, J

SEPTEMBER 10, 2024

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