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IN THE HIGH COURT OF DELHI AT NEW DELHI

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ARB.P. 932/2024

RADICO KHAITAN LIMITED

.....Petitioner

Through: Mr. Kamal Garg, Adv.

versus

SHIV KUMAR

.....Respondent

Through: None

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

07.10.2024

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1. This is a petition filed under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator.
2. The respondent approached the petitioner company for supply of goods manufactured by the petitioner.
3. The petitioner deals in liquor and the same were supplied to the respondent in pursuance to tax/sale invoices annexed with the petition.
4. The invoices contains arbitration clause, being clause 4, which reads as under-

“4)Any dispute (whether contractual or otherwise) arising out of this transaction between the Parties or arising out of or relating to or in connection with this invoice shall be referred for arbitration in terms of Arbitration and Conciliation Act 1996 or any amendment thereof. The arbitration shall be conducted by a sole arbitrator to be appointed by Radico Khaitan Limited in its sole discretion. The seat



of Arbitration shall be Delhi. This invoice shall be governed by the laws of India and courts in Delhi shall have exclusive jurisdiction over matters arising from this transaction/invoice. The Buyer shall be deemed to have accepted all terms and conditions contained-in the invoice including the arbitration agreement by accepting the goods delivered under this invoice.”

5. As per the licence granted by the Excise Department, the address of the respondent is “M/s. Shiv Kumar Godown at Village Aurangabad near Flyover, District Yamuna Nagar”.
6. Since there were disputes between the parties with regard to making payment, the petitioner sent a demand notice cum invocation of arbitration on 05.03.2024.
7. When the petition was listed, the court issued notice to the respondent.
8. As per the office report, the service is awaited. However, my attention has been drawn to the affidavit of service, where the respondent is served at the above address through speed post.
9. Despite service, there is nobody appearing on behalf of the respondent.
10. For the said reason, the petition is allowed and the following directions are issued:-
 - i) DIAC will appoint an Arbitrator out of the Panel of the Advocates maintained by the DIAC.
 - 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.

JASMEET SINGH, J

OCTOBER 7, 2024 / (MS)

Click here to check corrigendum, if any