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

+ **ARB.P. 1017/2023**

M/S ECOM EXPRESS LIMITED

..... Petitioner

Through: Mr. Varun Tyagi, Adv. (M.
9810549395)

versus

AMIT KUMAR, PROPRIETOR

HAACHI INDIA, NUTRAEARTH.IN

..... Respondent

Through: Mr. Mrinal Kishor, Mr. Sanjeev
Gupta, Adv. (M. 9958520733)

CORAM:

JUSTICE PRATHIBA M. SINGH

ORDER

% **19.01.2024**

1. This hearing has been done through hybrid mode.
2. This is a suit filed by the Petitioner seeking appointment of a sole arbitrator. The Petitioner in the present case is a company engaged in the business of providing e-commerce courier services.
3. A services agreement dated 26th August, 2020, was entered into between the Petitioner - M/s Ecom Express Limited and the Respondent- Haachi India. As per the said agreement, M/s Ecom Express had agreed to render services such as picking and delivery of goods, picking and delivering of returned articles to Haachi India, subject to payment of service fee. The services were in the nature of shipping & courier services. The said agreement consists dispute resolution clause, which reads as under:

“14. DISPUTE RESOLUTION: 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/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

15. GOVERNING LAW AND JURISDICTION.,

This Agreement, the construction and enforcement of its terms and the interpretation of the rights and duties of the Parties hereto shall be governed by the laws of India and shall be subject to the jurisdiction of courts in New Delhi. This Agreement is executed in English language which shall prevail over any translation thereof."

4. As per the above clause, if there are disputes, the parties have to first attempt conciliation for a period of 15 days, described as 'conciliation period' and thereafter, a Sole Arbitrator is to be appointed. According to the Petitioner, the invoices, which were raised by the Petitioner for the agreed billing period, were not paid. Hence, disputes have arisen.

5. The Petitioner sent a conciliation letter on 27th May, 2023. There was no reply to this letter by the Respondent. Thereafter, on 28th June, 2023, the Petitioner invoked arbitration and claimed a sum of Rs.8,34,490/- as per the



service agreement which is exclusive of the interest amount of Rs. 1,19,273/-. In reply to this, via letter dated 26th July, 2023, the Respondent stated through counsel that it is willing to resolve disputes amicably within 15 days.

6. However, Id. Counsel for the Petitioner submits that there is no attempted conciliation, although talks commenced between the parties but the same were unsuccessful, hence, the present petition has been filed for appointment of a Sole Arbitrator.

7. In view thereof, this Court is of the opinion that a Sole Arbitrator deserves to be appointed in this matter to adjudicate the disputes between the parties arising out of service agreement dated 26th August, 2020. Accordingly, **Ms. Disha Sharma (9899296222), Advocate** is appointed as the Sole Arbitrator in the matter. The Sole Arbitrator shall hold the first hearing on 3rd April, 2024.

8. In the meantime, the parties are free to attempt settlement of disputes. If the same are not settled, the Sole Arbitrator will enter reference and proceed in accordance with law.

9. The arbitration proceedings shall be conducted under the aegis of DIAC and as per the Rules of DIAC. The parties to appear before the Id. Sole Arbitrator in DIAC on 3rd April, 2024. The fee to the Arbitrator is to payable in terms of the Rules of DIAC.

10. Accordingly, Petition is disposed of.

11. The copy of the order be emailed to Secretary, DAIC, on email id- delhiarbitrationcentre@gmail.com.

PRATHIBA M. SINGH, J.

JANUARY 19, 2024/dk/ks