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

+ **ARB.P. 1059/2023**

MADD FOODS

..... Petitioner

Through: Ms. Aanchal Basur, Adv.(VC)

versus

HOI FOODS CONCEPT PVT. LTD.

..... Respondent

Through: Mr. Sanjay Baranwal, Mr. Shobhan Mahanti, Mr. Siddhant Katyar, Advs.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

12.03.2024

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1. By way of the present petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the '*A&C Act*'), the petitioner seeks appointment of an Arbitral Tribunal comprising
2. Learned counsel for the petitioner submits that the parties have entered into a Supply Agreement dated 17.09.2018. The purpose of this agreement was to provide the respondent with a range of frozen ready-to-eat food products intended for use in the preparation of food and beverage offerings. The petitioner has submitted that he dutifully discharged his obligations by regularly providing the respondent with a diverse array of food products.
3. Learned Counsel for the petitioner has submitted that there were persistent outstanding and overdue payments, for which a notice of default dated 16.07.2020 was issued. The respondent has made a



partial payment of Rs.21,82,867/-. It has further been stated that further a demand notice dated 22.09.2022 was also issued. However, the respondent in response to the legal notice, denied the liability.

4. Disputes having arisen between the parties, petitioner invoked arbitration vide notice dated 17.05.2023, issued under Section 21 of the A&C Act.
5. Learned counsel for the respondent has submitted that without prejudice to the contentions being raised by them in their reply, an independent arbitrator may be appointed. The claim amount is Rs.11,00,000/-.
6. Considering that both the parties have consented to the reference to the arbitral tribunal, the present petition is disposed of with the following directions:
 - i) The disputes between the parties under the said agreement are referred to the arbitral tribunal.
 - ii) Mr. Sonal Kumar Singh advocate, Mobile No. 9958555776 is appointed as an Arbitrator to adjudicate the disputes between the parties.
 - iii) 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'). The remuneration of the learned Arbitrator shall be in terms of fee rules of the DIAC Schedule or as the parties may agree.
 - 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 on 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.

7. The petition is disposed of in the above terms.

DINESH KUMAR SHARMA, J

MARCH 12, 2024

Pallavi