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

+ **ARB.P. 1071/2024**

GIRNAR SOFTWARE PVT LTD

.....Petitioner

Through: Mr Rajeev Saxena, Ms Megha Saxena
and Ms Shreya, Adv.

versus

ZOOMCAR INDIA PVT LTD

.....Respondent

Through: Mr Abhishek Yadav and Mr Prakhar
Srivastava, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

% **23.07.2024**

I.A. 34011/2024

1. Exemption is granted subject to all just exceptions.
2. The petitioner shall file legible and clearer copies of exempted documents, compliant with practice rules before the next date of hearing.
3. The application is disposed of.

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4. This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996 seeking appointment of a Sole Arbitrator.
5. It is stated that the respondent availed the services of the petitioner for software development for its product line. On 12.07.2022 the petitioner and the respondent entered into a Service Agreement which contains the arbitration clause being clause 13 which reads as under:

*“13. **Dispute Resolution:** If any dispute or difference of any kind, whatsoever, shall arise between the Parties in connection with or*



arising out of this Agreement (whether before or after the termination or breach of this Agreement, SOW or Location) the concerned representatives of the Parties shall promptly and in good faith negotiate with a view to an amicable resolution and settlement of the dispute. In the event no amicable resolution or settlement is reached within a period of thirty (30) days, such dispute or difference shall be referred to a sole arbitrator to be appointed by both parties mutually. Arbitration shall be conducted in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996 and any amendments thereof. The arbitration proceedings shall be held at New Delhi, India and the language shall be English. The cost of arbitration shall be borne by Parties equally.”

6. Since there were disputes between the parties, the petitioner invoked arbitration vide Legal Notice dated 14.11.2023. Since the disputes were not resolved, the present petition has been filed.

7. Issue notice.

8. Mr Yadav, learned counsel accepts notice on behalf of the respondent and has no objection to the petition being allowed. However, he states that he is objecting to the application seeking interim relief.

9. Mr Saxena, learned counsel for the petitioner states that he has no objection if an Arbitrator is appointed and the prayers made in the Section 9 application are adjudicated upon by the learned Arbitrator.

10. For the said reasons, the petition is allowed. Since the parties are still having disputes between them, the following directions are issued:-

i) Ms. Gurmeet Bindra, Advocate (Mob. No. 9810155549) is



appointed as a Sole Arbitrator to adjudicate the disputes between the parties.

- 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'). The remuneration of the learned Arbitrator shall be in terms of the Fourth Schedule of the Arbitration & Conciliation Act, 1996.
 - iii) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
 - iv) 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 on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
 - v) The application being I.A. 34010/2024 shall be treated as an application under Section 17 of the Arbitration and Conciliation Act, 1996 which shall be decided by the learned Arbitrator appointed today.
 - vi) The parties shall approach the learned Arbitrator within two weeks from today.
11. The petition is allowed and disposed of in the aforesaid terms.

JULY 23, 2024/sr

JASMEET SINGH, J

[Click here to check corrigendum, if any](#)