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

+ **ARB.P. 1115/2023, I.A. 21170/2023**

**GONU RAM, PROPRIETOR OF M/S RIDDHI TRADING
COMPANY** Petitioner

Through: Mr.Sidharth Joshi, Ms.Ambareen,
Mr.Amit Kumar, Mr.Vikrant Vallabh
Sharan and Ms.Nidhi Sharma, Advts.

versus

NATIONAL INSURANCE CO. LTD Respondent

Through: Mr.Shubham Sharma, adv.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

05.01.2024

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I.A. 21170/2023 (delay)

1. The present application has been filed for condonation of delay of 53 days in re-filing the present petition.
2. For the reasons mentioned in the application, the delay of 53 days in re-filing the petition is condoned.
3. The application stands disposed of.

ARB.P. 1115/2023

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 Arbitral Tribunal comprising of a Sole Arbitrator to adjudicate the disputes between the parties.
2. Learned counsel for the petitioner submits that the parties had entered into



an insurance policy dated 26.03.2021. It is submitted that the said Agreement contains an arbitration clause (clause 13), which provides that all disputes, with respect to the said agreement, shall be referred to arbitration as per provisions of the A&C Act, and further provides that the place of arbitration would be at Delhi.

3. Disputes having arisen between the parties, the petitioner invoked arbitration vide legal notice dated 26.04.2023 to which no response has been received till date.
4. Learned counsel submits that since there is no dispute to the arbitration clause, the matter may be referred to the arbitral tribunal. Learned counsel for the petitioner submits that as per agreement, each of the parties shall nominate one of the arbitrators and then both the learned arbitrators may choose the presiding arbitrator.
5. Learned counsel for the petitioner submits that Justice Brijesh Sethi, Former Judge of this court may be appointed as an arbitrator.
6. Mr. Shubham Sharma, learned counsel for the respondent submits that without prejudice to the contentions raised in reply filed by the respondent and subject to the contentions to be raised before the learned arbitrator, he proposes that the matter may be referred to the arbitral tribunal and has proposed the name of Justice Rajiv Sahai Endlaw, Former Judge of this court to be appointed as an arbitrator.
7. In view of the submissions made by learned counsels for both the parties and 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) As agreed by both the counsels for the parties, Justice Rajiv Sahai Endlaw, Former Judge of this court and Justice Justice Brijesh Sethi, Former Judge of this Court are appointed as arbitrators and are requested to mutually nominate an arbitrator to adjudicate the dispute 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 Schedule IV of the A&C Act 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.

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

DINESH KUMAR SHARMA, J

JANUARY 5, 2024

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