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

+ **ARB.P. 1118/2023**

TIMEX GROUP INDIA LIMITED

..... Petitioner

Through: Mr.Sabyasachi Mishra, Adv.

versus

MUSTAFA ENTERPRISES & ORS.

..... Respondents

Through: Mr.Sumana Naganand, Mr.Tushar
Kanti Mohindroo and Mr.Arnab
Khanna, Advts. for respondents no.1
to 5.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

27.02.2024

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I.A. 21189/2023 (for exemption)

1. Exemption allowed, subject to all just exceptions.
2. The application stands disposed of.

I.A. 21190/2023 (delay)

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

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6. 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 of a sole arbitrator, to adjudicate the disputes between the parties.

7. Learned counsel for the petitioner submits that the parties had entered into a franchise Agreement dated 28.11.2018, which provides that disputes with respect to the agreement shall be resolved through arbitration as per provisions of A&C Act. It further provides that the place of arbitration would be at New Delhi.
8. Disputes having arisen between the parties, petitioner invoked arbitration vide notice dated 09.05.2023, issued under Section 21 of the A&C Act.
9. The agreement containing arbitration clause (clause 24), jurisdiction and arbitrable dispute have not been disputed. The effort for amicable settlement through mediation could not fructify.
10. Learned counsel for both the parties submit that the matter may be referred to arbitration.
11. 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, DIAC shall nominate 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.

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

DINESH KUMAR SHARMA, J

FEBRUARY 27, 2024

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