



2024:DHC:8156



\$~1

*

IN THE HIGH COURT OF DELHI AT NEW DELHI

%

Date of Decision : 21.10.2024

+

ARB.P. 1092/2024**VLCC PERSONAL CARE LIMITED**

.....Petitioner

Through: Mr. Ashim Sood, Mr. Ankur Singhal,
Mr. Shantanu Awasthi and Mr.
Shikhar Mittal, Advs.

versus

M/S UDAY ENTERPRISES (THROUGH ITS PARTNERS

.....Respondent

Through: Mr. Robin George and Mr. Yogesh
Bhatt, Advs.

CORAM:**HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J. (Oral)**

1. The present petition has been filed by the petitioner seeking appointment of a Sole Arbitrator to adjudicate the disputes that have arisen between the parties. These disputes stem from a distribution agreement dated 15.07.2022 (hereinafter the 'Agreement'). Under the Agreement the respondent was appointed to sell and market the products of the petitioner.
2. The agreement between the parties contains an arbitration clause as under : -

"21. In case of any dispute or difference, whatsoever arising between the parties under this Agreement shall be settled by arbitration by a sole arbitrator appointed by the Company. The Arbitration shall be in accordance with the Arbitration and Conciliation Act, 1996 and of any amendment thereof from time to time and the award made in pursuance thereof



shall be binding on the Parties. It is mutually agreed that venue of the arbitration shall be at New Delhi."

3. Disputes having been arisen between the parties, the respondent issued a legal notice on 16.11.2023, demanding specific payments from the petitioner. The petitioner, however, disputes the respondent's claim and contends that it is, in fact, the respondent who owes certain payments to the petitioner.
4. The petitioner, referring to the disputes between the parties sent an invocation cum termination notice dated 18.04.2024, thereby invoking the arbitration clause contained in the Agreement.
5. *Vide* para 12 and 13 of the said notice dated 18.04.2024, it was stated as under -

"12. In view of the dispute mentioned above, Our Client intends to Firstly terminate the Agreement dated 15.07.2022 in terms of 18.1. and Secondly appoint an arbitral tribunal in terms of "Clause 21" of the Agreement dated 15.07.2022, to resolve the disputes between the parties in accordance with the terms and conditions of the foresaid Agreement and the Arbitration and Conciliation Act, 1996. Clause 21 is read as under:

"21.

In case of any dispute or difference, whatsoever arising between the parties under this Agreement shall be settled by arbitration by a sole arbitrator appointed by the Company. The Arbitration shall be in accordance with the Arbitration and Conciliation Act, 1996 and of any amendments thereof from time to time and the award made in pursuance thereof shall be binding on the Parties. It is mutually agreed that venue of the arbitration shall be New Delhi. "



2024:DHC:8156



13. That in view of the above, Our Client proposes the following names to act as the Sole Arbitrator to adjudicate the disputes mentioned hereinabove. Details of the Sole Arbitrator to be appointed are as under:

*Mr. J.R. Aryan
(Retired) District and Sessions Judge, New Delhi
N-80, 2nd Floor, Greater Kailash - 1,
New Delhi - 110048
aryanjanak@gmail.com
+91 9958697034*

6. The Respondent, in its reply dated 16.05.2024, conveyed its disagreement with the Petitioner's proposal to constitute an arbitral tribunal.

7. Therefore, the petitioner has approached this Court, through the present petition, seeking the appointment of a Sole arbitrator to adjudicate the disputes between the parties.

8. The existence of the arbitration agreement between the parties is evident from a perusal of the Agreement between the parties. In the circumstances, there is no impediment in appointing an independent Sole arbitrator to adjudicate the disputes between the parties as mandated in terms of the judgements of Supreme Court in ***Perkins Eastman Architects DPC (Supra)***, ***TRF Limited v. Energo Engineering Projects Limited***, (2017) 8 SCC 377 and ***Bharat Broadband Network Limited v. United Telecoms Limited***, (2019) 5 SCC 755.

9. Accordingly, Ms. Shreya Vedantika Mehra, Advocate (Mob. No. +91 9910027557) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

10. The respondent shall be entitled to raise preliminary objections as



2024:DHC:8156



regards arbitrability/jurisdiction which shall be decided by the arbitrator, in accordance with law.

11. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosures as required under Section 12 of the A&C Act.

12. The learned Sole Arbitrator shall be entitled to fee in accordance with fourth schedule of the A&C Act; or as may otherwise be agreed to between the parties and the learned Sole Arbitrator.

13. Parties shall share the arbitrator's fee and arbitral costs, equally.

14. All rights and contentions of the parties in relation to the claims/counter-claims are kept open, to be decided by the learned Arbitrator on their merits, in accordance with law.

15. Needless to say, nothing in this order shall be construed as an expression of this court on the merits of the case.

16. The present petition stands disposed of in the above terms.

SACHIN DATTA, J

OCTOBER 21, 2024/sv