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

+ **ARB.P. 1137/2023**

HERO MOTOCORP LIMITED

..... Petitioner

Through: Mr Rahul Malhotra, Ms Sanyogita
Jain and Mr Priyanshu Singh, Advs.

versus

M/S SRI SAI MOTORS & ORS.

..... Respondents

Through: Mr D.P. Chaturvedi Adv. for R-1 and
R-2 (through VC)

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

21.03.2024

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1. This is a petition under Section 11(6) of the Arbitration & Conciliation Act, 1996 seeking appointment of an Arbitrator. The arbitration clause is contained in Clause 23.16 of the dealership agreement dated 16.12.2017 which reads as under:

“23.16 ARBITRATION AND DISPUTE RESOLUTION

a) Any dispute or difference between the Parties arising out of or in connection with this Agreement, including any question regarding its interpretation, existence, performance, validity or termination, either during the terms of the Agreement or at anytime thereafter, will be settled between the Parties through friendly consultations and negotiations.

b) If no settlement can be reached through friendly consultations and negotiations as discussed in Article 23.16(a) of this Agreement within thirty (30) days of one Party delivering



a notice of the dispute or difference to other Party, then such dispute will be finally settled by arbitration in accordance with the provisions of this Article 23.16.

c) The Arbitration proceedings will be conducted in accordance with the provisions of the Arbitration and conciliation Act, 1996 (“Arbitration Act”).

d) The dispute or difference will be referred to a panel of three (3) arbitrators, one arbitrator to be appointed by each Party and the third arbitrator to be appointed by the two arbitrators appointed by the Parties. In the event that either Party fails to appoint its arbitrator within fifteen (15) days from one Party submitting a request for appointment of such arbitrators to the other Party or the two arbitrators appointed by the Parties fail to appoint the third arbitrator within 15 (days) from the date of appointment of second arbitrator, the single arbitrator or the third arbitrator will be appointed in accordance with the provisions of the Arbitration Act.

e) The arbitration proceedings will be held at New Delhi and the language to be used in the arbitral proceedings will be English.

f) The prevailing Party in the arbitration proceedings will be awarded reasonable attorney’s fees, if any, and all other costs and expenses in relation to the arbitration proceedings unless the arbitrators for good cause determine otherwise.”

2. The Legal Notice invoking arbitration was invoked on 15.11.2022.
3. Mr Chaturvedi, learned counsel appears for the respondents and has



no objection to the appointment of an Arbitrator by this Court.

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

- i) Mr. Divya Prakash Pande, Advocate (Mob. No. 9818077123) 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 on merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
- v) The parties shall approach the learned Arbitrator within two weeks from today.

5. The petition is allowed and disposed of in the aforesaid terms.

JASMEET SINGH, J

MARCH 21, 2024/sr [Click here to check corrigendum, if any](#)