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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of Decision: 05.11.2024**+ **ARB.P. 1111/2024 & I.A. 34566/2024****M/S ADEP CLINICAL RESERARCH AND DIAGNOSTIC**

.....Petitioner

Through: Md. Faris and Mr. Aman Kumar,
Advs.

versus

M/S SHYAMBHAVI LABS PRIVATE LIMITEDRespondentThrough: Mr. Pulkit Thareja and Mr. Sourabh
Harihar, Advs.**CORAM:****HON'BLE MR. JUSTICE SACHIN DATTA****SACHIN DATTA, J (ORAL.)****IA No.34566/2024 (delay of 04 days in re-filing the petition)**

1. For the reasons stated in the application, the delay of 04 days in re-filing the petition is condoned.
2. The application stands disposed of.

ARB.P. 1111/2024

3. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (hereinafter '*the A&C Act*') seeking appointment of a Sole Arbitrator for adjudicating the disputes arising between the parties. The disputes between the parties have arisen in context of an 'admission deed of partnership' dated 01.11.2022 (hereafter '*the partnership deed*'). The petitioner firm is engaged in medical healthcare, research, testing and diagnostics and entered into the said partnership deed with the respondent in



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terms of which the respondent was to act as the active partner. As per Clause 8 of the partnership deed, the respondent was to receive a 50% share in the profits of the petitioner firm in lieu of performing the various duties and responsibilities enlisted under Clause 15 of the partnership deed.

4. A perusal of the aforesaid deed shows that the arbitration clause, contained in clause 23 of the partnership deed and reads as under: –

“23. Whenever there by any difference of opinion or any dispute between the partners the partners shall refer the same to an arbitration of one person. The decision of the arbitration so nominated shall be final and binding on all partners, such arbitration proceedings shall be governed by Indian Arbitration Act, which is in force.”

5. The petitioner sent an invocation notice dated 09.06.2023 under Clause 23 of the partnership deed. *Vide* the said notice, the petitioner also suggested the name of a person who could be appointed as the Sole Arbitrator. However, the said notice was not responded to.

6. Thereafter, the petitioner sent a second invocation notice dated 27.11.2023 under clause 23 of the admission deed wherein the petitioner suggested the name of an alternate person who could be appointed as the Sole Arbitrator. The respondent sent a reply dated 08.12.2023 to the second invocation notice wherein it did not consent to the appointment of the person suggested by the petitioner as an arbitrator and objected to the lack of specific details regarding the claims raised by the petitioner in the invocation notices. Hence, the present petition.

7. Notice was issued in the present petition on 29.07.2024.

8. The respondent *vide* its reply dated 19.10.2024, objected to the present petition on two grounds –

(i) First, that there was non-joinder of the proper parties as both the



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invocation notices were sent on behalf of all the partners of M/s. Adep Clinical Research & Diagnostics, however, only the said firm, i.e. M/s. Adep Clinical Research, has been arrayed as the petitioner herein. Furthermore, even the arbitration clause contained in the partnership deed is amongst the partners of the partnership firm and not between the petitioner firm i.e. Adep Clinical Research and Diagnostic and the respondent/partner.

- (ii) That the invocation notice dated 27.11.2023 is not a proper notice under Section 21 A&C Act as it does not provide specific details of the disputes between the parties.

9. As regards the aspect of non-joinder of the proper parties in the present petition, this Court *vide* order dated 25.10.2024, had granted leave to the learned counsel for the petitioner to file an amended memo of parties. Accordingly, an amended memo of parties bearing diary no. 4961939/2024 has now been filed by the petitioner impleading Mr. Riju R Nair, Mrs. Eiakagra Gupta, Mrs. Deepakshi Gupta and Mrs. Lokeshwari Devi, i.e., the partners in M/s. Adep Clinical Research & Diagnostics. The said individuals/partners are admittedly parties to the arbitration agreement.

10. As to the aspect of the invocation notice dated 27.11.2023 lacking specific details of the disputes between the parties, it has been brought out by the learned counsel for the petitioner that the nature of the claim sought to be raised against the respondent, has been set out in paragraph 5 of the present petition. The law is well settled that an invocation notice need not contain minute details/particulars as to the claims sought to be raised and it is sufficient if the gist of the disputes between the parties is set out. In this regard, reference may be made to the judgments in *Alupro Building*



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Systems Pvt. Ltd. v. Ozone Overseas Pvt. Ltd. 2017 SCC OnLine Del 7228 and *Ministry of Youth Affairs & Sports v. Agility Logistic Pvt. Ltd.*, 2022:DHC:1258.¹

11. The existence of the arbitration agreement is apparent from the perusal of Clause 23 of the partnership deed. In view of the judgments of the Supreme Court in *Interplay between Arbitration Agreements under the Arbitration & Conciliation Act, 1996 & the Indian Stamp Act, 1899, In re*, 2023 SCC OnLine SC 1666, and in *SBI General Insurance Co. Ltd. v. Krish Spinning*, 2024 INSC 532, the scope of enquiry in the present proceedings is restricted to ascertaining whether there exists an arbitration agreement between the parties.

12. In the circumstances, I find no impediment in appointing an arbitrator as the claim sought to be resolved through arbitration has been notified to the respondent by way of service of the present petition.

13. Accordingly, Ms. Aakanksha Kaul, Advocate (Mob.: 9818131566) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties under the aforesaid agreements.

14. The learned Sole Arbitrator may proceed with the arbitration proceedings subject to furnishing to the parties requisite disclosure as required under Section 12 of the A&C Act; and in the event there is any impediment to the appointment on that count, the parties are given liberty to

¹ In *Ministry of Youth Affairs & Sports v. Agility Logistic Pvt. Ltd.*, it has been held as under:

“41. It is not necessary that a notice under Section 21 of the A&C Act quantifies the amounts claimed. It is required to set out the disputes. In the present case, it is not disputed that the Notice under Section 21 of the A&C Act clearly communicated the disputes between the parties. The Arbitral Tribunal had examined the said contention and found that the issue was covered by the decision of the Supreme Court in *State of Goa v. Praveen Enterprises*; 2011 SCC OnLine SC 860. The Arbitral Tribunal noted that it was not necessary for the claims to be specifically stated in the notice under Section 21 of the A&C Act, and therefore, the same could not be rejected only on the ground that there was no mention of the same in the notice under Section 21 of the A&C Act.”



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file an appropriate application in this court.

15. The learned Sole Arbitrator shall be entitled to fee in accordance with IVth Schedule to the A&C Act; or as may otherwise be agreed to between the parties and the learned Sole Arbitrator.

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

17. 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.

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

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

SACHIN DATTA, J

NOVEMBER 5, 2024/dn