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

+ ARB.P. 1164/2023, I.A. 22009/2023

M/S MORANI MOTO PARTS PRIVATE LIMITED..... Petitioner

Through: Mr. Abdullah Tanveer, Mr. Sandeep
Chilana and Ms.Vaishnavi Gupta,
Adv.s. (VC)

versus

M/S MOBIS INDIA LIMITED

..... Respondent

Through:

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

26.02.2024

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1. The present petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996 (The Act) seeking appointment of Arbitrator for adjudication of disputes. The parties have entered into Distributorship Agreement dated 24.11.2017. The Article 38 of the Distributorship Agreement provides the governing law as arbitration and the jurisdiction. Article 38.6 provides as under;

“38.6 in the event of any dispute or difference arising out of this agreement or in connection with and interpretation of this agreement, the same shall be referred for arbitration to a sole arbitrator to be appointed by the FIRST PARTY but that arbitrator shall not be a director or employee of the FIRST PARTY at the time of reference as per the provisions of the Indian Arbitration Act, 1996. The venue of arbitration shall be at Delhi. In the event of litigation in court, this agreement is subject to DELHI jurisdiction.”

2. Learned counsel submits that the respondent company is engaged in the business of manufacturing, buying, and selling of automobile accessories, spare parts and other products of M/s Hyundai Motor



Company and Petitioner was appointed as the authorized distributor of Hyundai genuine parts and genuine accessories for Hyundai Cars.

3. The petitioner's case is that the petitioner invested crores of rupees into the said dealership and performed exceptionally well by attaining all its monthly targets and early birds targets as set out by the Respondent. However, Respondent failed to appreciate the Petitioner's efforts and abruptly terminated the Petitioner's dealership without affording any opportunity of hearing to the Petitioner, vide its Termination Notice dated 18.08.2020. The petitioner's case is that the termination is completely unjust, unreasonable and against the terms set out in the Distributorship Agreement and has caused immense losses/damages to the petitioner. The arbitration was invoked vide notice dated 29.12.2021 which was duly responded vide notice dated 13.01.2022. The notice was issued, the respondent duly appeared and sought time to take instructions. Thereafter, the respondents have chosen not to appear.
4. I consider that the conditions for the matter to be referred to arbitration have been fulfilled. There is an agreement between the parties which contains the arbitration clause with the jurisdiction at the Delhi. An arbitrable dispute has arisen between the parties and allegedly the distributorship has been terminated by the respondent without any basis. The arbitration has duly been invoked.
5. 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) Mr. P.K. Saxena, Former learned District Judge, Mobile No. 9910384668, is appointed as Sole 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 as per Schedule IV of the Arbitration and Conciliation Act, 1996.
- 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.

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

DINESH KUMAR SHARMA, J

FEBRUARY 26, 2024

Pallavi