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

+ **ARB.P. 1197/2023**

M/S DHAWANBOX SHEET CONTAINERS PVT. LTD .

..... Petitioner

Through: Mr. Aayush Malhotra, Mr. Shobhit
Garg, Advs.

versus

M/S HARSHNA AGRO SOLUTIONS PVT. LTD.

..... Respondent

Through: None.

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

24.01.2024

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1. By way of the present petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the 'A&C Act'), the petitioner seeks appointment of Arbitral Tribunal comprising of a Sole Arbitrator to adjudicate the disputes between the parties.
2. Learned counsel for the petitioner submits that the parties had entered into a supply Agreement vide email dated 03.09.2022 thereafter, multiple invoices were raised. Learned counsel for the petitioner further submits that the respondent has failed to make the payment of invoices.
3. It is submitted that arbitration clause (clause 4/5) of the said invoices contains the arbitration clause, which provides that all disputes with respect to the said agreement, shall be referred to arbitration as per



provisions of the A&C Act, and further provides that the agreed place of arbitration would be New Delhi.

4. Disputes having arisen between the parties, petitioner invoked arbitration vide notice dated 15.06.2023.
5. Learned counsel for the petitioner further submits that the respondent has duly been served. The affidavit of service has also been filed. Considering the aforementioned submissions, the respondents are deemed to be served.
6. Learned counsel for the petitioner also submits that a petition under Section 138 of the Negotiable Instrument Act has been initiated against the respondent.
7. In view of the above, 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, the matter is referred to DIAC to appoint 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 Schedule IV of the A&C Act 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.
- 8. The petition is disposed of in the above terms.

DINESH KUMAR SHARMA, J

JANUARY 24, 2024/AR..