



2024:DHC:2019



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

% ***Date of decision: 5th March, 2024***

+ **ARB.P. 128/2024**

M/S ALTRUIST CUSTOMER MANAGEMENT INDIA PVT. LTD.

..... Petitioner

Through: Mr. Raheel Kohli and Mr. Kamil Khan, Advocates.

versus

M/S O2 SPA SALON PVT. LTD.

..... Respondent

Through: Counsel for respondent.

CORAM:

HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

I.A. 2154/2024 (Exemption)

Exemption allowed, subject to all just exceptions.

The application stands disposed of.

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1. The Arbitration Petition under Section 11(6) of the Arbitration and Conciliation Act, 1996, has been filed by the petitioner, for appointment of the Arbitrator.
2. The petitioner a Company incorporated under the Companies Act, 1956, was engaged in the business of providing customer services (call centre services). The respondent is in the business of providing personal care



services with which, the petitioner entered into an Agreement dated 11.04.2016, for an agreed consideration, for a period of three years effective from 11.04.2016. Subsequently, disputes arose between the parties, as according to the petitioner, the respondent stopped making payments towards the invoices raised by the petitioner, since June 2017. The respondent failed to pay despite repeated requests sent through e-mails. The respondent *vide* e-mail dated 30.05.2018, acknowledged and admitted the delay in payments and assured that the payment would be soon made. However, the respondent failed to make any payments.

3. The petitioner filed its claim Petition under Section 18 of the Micro, Small and Medium Enterprises Development Act, 2006 ('MSME Act, 2006') before the Haryana Micro and Small Enterprises Facilitation Council ('MSME Council'). However, the Petition was dismissed *vide* Order dated 25.05.2023 as not maintainable since the services were rendered prior to petitioner's registration under MSME Act, 2006.

4. The petitioner then invoked arbitration *vide* Arbitration Invocation Notice dated 08.06.2023, naming Ms. Rishika Arora, Advocate as its nominee Arbitrator and calling upon the respondent, to appoint its nominee Arbitrator in terms of Clause 17.5 of the Agreement. However, the respondent neither replied to the Notice of Invocation nor nominated an Arbitrator, despite due service. Hence, the petitioner has filed the present Petition for recovery of its amounts along with interest through Arbitrator. A request is, therefore, made that the Arbitrator may be appointed.

5. The respondent has been duly served through e-mail, by the petitioner and the affidavit of service has been filed by the petitioner, on record.

6. Considering that there are disputes enable to Arbitration and there



exist a valid Arbitration Clause, Mr. Abhilash Mathur, Advocate (D-662/1990), (M) 9811041536, is hereby appointed as the Arbitrator, to adjudicate the disputes between the parties.

7. The parties are at liberty to raise their respective objections before the Arbitrator.

8. The fees of the learned Arbitrator would be fixed in accordance with the IV Schedule to the Act, 1996 or as consented by the parties.

9. This is subject to the Arbitrator making necessary disclosure as under Section 12(1) of A&C Act, 1996 and not being ineligible under Section 12(5) of the A&C Act, 1996.

10. The appointment of the Arbitrator shall be governed by the rules framed by the DIAC, including the fees and the disclosure to be made by the learned Arbitrator in conformity of Section 12 of the Arbitration and Conciliation Act, 1996.

11. Learned counsels for the parties are directed to contact the learned Arbitrator within one week of being communicated a copy of this Order to them by the Registry.

12. This Order is without prejudice to the rights and contentions of the parties, which they are at liberty to raise before the learned Arbitrator.

13. The Order of Appointment of the Arbitrator be kept in abeyance for a period of one month. In the meantime, if the parties resolve their disputes, an intimation to that effect shall be sent to the learned Arbitrator, failing which the arbitration proceedings shall be commenced.

14. A copy of this Order be also forwarded to the learned Arbitrator, for information.



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15. Accordingly, the petition is accordingly allowed and disposed of in the above terms.

(NEENA BANSAL KRISHNA)
JUDGE

MARCH 5, 2024/RS

Signature Not Verified

Digitally Signed By: AHIL
SHARMA

Signing Date: 12/03/2024
20:28:44

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