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

+ **ARB.P. 151/2024**

SH. AJAY KUMAR

..... Petitioner

Through: **Mr.Brijballabh Tiwari, Adv.**

versus

M/S SAINI TRANSPORT SERVICES & ANR. Respondents

Through:

CORAM:

HON'BLE MR. JUSTICE DINESH KUMAR SHARMA

ORDER

22.04.2024

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I.A. 2669/2024 (delay)

1. Present application has been filed for condonation of delay of 125 days in re-filing the present petition.
2. For the reasons mentioned in the application, the delay of 125 days in re-filing the petition is condoned.
3. The application stands disposed of.

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4. By way of the present petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter, referred to as the 'A&C Act'), the petitioner seeks appointment of an Arbitral Tribunal comprising of a Sole Arbitrator to adjudicate the disputes *inter se* the parties.
5. Learned Counsel for the petitioner submits that the parties have entered



into a partnership deed dated 15.11.2019 under the name and style of M/s Saini Transport Services. It is submitted that the said Agreement contains an arbitration clause (clause 12), 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 place of arbitration would be at Delhi.

6. Disputes having arisen between the parties, the petitioner invoked arbitration vide legal notice dated 19.01.2023 which was replied by the respondent vide reply dated 03.02.2023. On 13.03.2024, learned counsel for the respondent also appeared and sought time to file the reply. The reply is not on record. However, a copy of the same has been served upon the learned counsel for the petitioner.
7. I have gone through the reply filed by the respondent shared on the screen. The perusal of the reply indicates that the agreement between the parties and the arbitration clause has not been disputed. The respondent has disputed the claim made by the petitioner.
8. The jurisdiction of the court at the stage of making the reference is very limited. It cannot go into the merits of the case. The court has to see prima facie only as if there is an agreement between the parties and there is an arbitration clause. The court has also to see if there is an arbitrable dispute. The claim amount is around Rs.57 lakhs.
9. In the circumstances, 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.Dinesh Kumar Singh, Former Judge, Patna High Court (Mobile



No. 9431015011) is appointed as the sole Arbitrator to adjudicate the disputes between the parties.

- iii) The arbitration will be held under the aegis of 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.
10. The Petition along with pending application is disposed of in the above terms.

DINESH KUMAR SHARMA, J

APRIL 22, 2024

rb/ak..