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

+ O.M.P.(I) (COMM.) 311/2024 & I.A. 39375/2024

UNI ONE INDIA PVT LTD

.....Petitioner

Through: Mr. Abhay Pratap Singh & Ms.
Nikita Agarwal, Advocates.

versus

USHA INTERNATIONAL LIMITED

.....Respondent

Through: Mr. Sonal Kumar Singh, Mr. Ratik
Sharma, Mr. Puneet & Ms. Shivani
Chaudhary, Advocates. [M:-
9756152092]

CORAM:

HON'BLE MR. JUSTICE PRATEEK JALAN

ORDER

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20.09.2024

1. The petitioner has approached this Court, under Section 9 of the Arbitration and Conciliation Act, 1996 [“the Act”], for interim measures of protection in anticipation of arbitration proceedings under an agreement dated 23.07.2019.

2. Under the said agreement, the petitioner was appointed as a distributor of goods of appliances manufactured by the respondent. The agreement has been terminated by the respondent in March, 2024. This is the genesis of the dispute between the parties.

3. It is the case of the petitioner that it remains in possession of inventory sent by the respondent during the currency of the agreement. Although parties join issue as to whether the unsold inventory remains



the property of the petitioner or the respondent, the relief sought is to sell the goods and retain the proceeds, pending further orders in the arbitration proceedings.

4. Mr. Sonal Kumar Singh, learned counsel, appears on behalf of the respondent. He submits that respondent also has counter claims arising under the agreement and also proposes to seek interim measures of protection in that regard.

5. In the course of hearing, learned counsel for the parties agree that the disputes under the agreement may be referred to arbitration in these proceedings itself, and that both parties will be at liberty to file applications for interim measures of protection before the learned arbitrator.

6. Having regard to the above submission, and with the consent of learned counsel for the parties, the petition is disposed of with the following directions:-

- a. The claims and counter claims arising out of the agreement dated 23.07.2019 are referred to arbitration of Mr. Ramesh Singh, Senior Advocate [Tel: 9810071712].
- b. The learned Arbitrator is requested to furnish a declaration under Section 12 of the Act, prior to entering upon the reference.
- c. The arbitration proceedings will be held under the aegis of Delhi International Arbitration Centre, Delhi High Court, Shershah Road, New Delhi-110503 [“DIAC”], and will be governed by the Rules of DIAC, including as to remuneration of the learned Arbitrator.
- d. The present petition will be treated as the petitioner’s application under Section 17 of the Act before the learned Arbitrator. As



learned counsel for the petitioner expresses some urgency, the respondent is at liberty to file a reply thereto within two weeks from today. The petitioner may file a rejoinder within one week thereafter or immediately upon the learned Arbitrator entering into reference, whichever is later. The learned Arbitrator is requested to consider the petitioner's application under Section 17 of the Act as expeditiously as possible.

- e. If the respondent seeks an interim measure of protection, it may also file an application under Section 17 of the Act.
 - f. All rights and contentions of the parties in the arbitral proceedings, including on the interim application are left open for consideration by the learned Arbitrator.
7. The petition stands disposed of with these directions.

PRATEEK JALAN, J

SEPTEMBER 20, 2024

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