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

+ **O.M.P.(I) (COMM.) 328/2024**

ZODIAC HEALOTRONICS PVT LTD

.....Petitioner

Through: Mr Vikas Singh, Sr. Adv. with Mr Varun Shankar,
Mr Aryan Panwar, Mr Anand Bhushan, Ms
Deepika Kalia, Ms Vasudha Singh and Mr
Sandeep Chandra, Advs.

versus

UNION OF INDIA & ORS.

.....Respondents

Through: Mr Chetan Sharma, ASG with Ms Amrita
Narayan, Mr Buddy Rangathan, Mr Amit Gupta,
Mr Shubham Sharma, Mr Vikramaditya Singh, Mr
Faranaaz Karbhari and Mr Ashwin Rakesh, Advs.
for R-2.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

14.10.2024

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I.A. 41792/2024

1. This is an application seeking modification of the order dated 23.09.2024 by deleting the reference to “(i) appointment of the Sole Arbitrator; and (ii) aegis of the DIAC”.
2. Mr Sharma, learned ASG on instructions of Ms Amrita Narayan, Advocate and also on instructions of Mr V.M.Sonar, Superintendent Engineer, Nodal Officer states that if both the sides are agreeable then the reference of DIAC be removed and instead of a Sole Arbitrator, an Arbitral Tribunal be constituted.



3. Mr Singh, learned senior counsel appearing for the petitioner, on instructions of Mr Varun Sharma, Advocate, states that the same is acceptable.

4. With the consent of learned counsels for the parties, paragraph 5 of the Order dated 23.09.2024 is modified and shall now reads as under:-

“5. In view of the submissions of the learned senior counsel for the parties, the petition is disposed of with the following directions:-

- i. The Arbitral Tribunal shall consist of three Arbitrators namely Mr Arvind Kumar Arora, Nominee of the Petitioner (Mobile No. 8130588577), Mr Afzal Amanullah, Nominee of the Respondents (Mobile No. 9868255133) and Mr Justice Vipin Sanghi (Retd. Chief Justice of Uttarakhand High Court) (Mobile No. 9871300037) as the Presiding Arbitrator.
- ii. The remuneration of the Arbitral Tribunal will be in accordance with Society for Affordable Redressal of Disputes Ports (‘SAROD’).
- iii. The learned Arbitrators are requested to furnish a declaration in terms of Section 12 of the Arbitration and Conciliation Act, 1996 prior to entering into the reference.
- iv. 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/counter-claims and merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.
- v. The present petition shall be treated as an application under Section 17 of the Arbitration and Conciliation Act, 1996 before the Arbitral Tribunal and the respondents will file a reply within



two days. In case the Arbitral Tribunal comes to a finding that the bank guarantee has wrongly been encashed, the respondent shall restitute the bank guarantee before the matter is taken up for further hearing.”

5. The paragraph 5 of the Order dated 23.09.2024 stands modified accordingly.
6. The application is disposed of.

JASMEET SINGH, J

OCTOBER 14, 2024

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[Click here to check corrigendum, if any](#)