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

+ **ARB.P. 546/2025**

MASSIVE RESTAURANTS PRIVATE LIMITEDPetitioner

Through: Mr. Prateek Kumar, Ms. Aarushi, Ms. Ankita, Mr. Prashant Kr. Sharma, Advocates

versus

AV HOSPITALITY VENTURES LLPRespondent

Through: Mr. Vaibhav Shahi, Mr. Shubham Mishra, Ms. Shraddha Agarwal, Mr. Ayush Kr. Singh, Advocates

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

% 25.04.2025

1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 ['Act of 1996'] seeking appointment of the Sole Arbitrator for the adjudication of disputes between the parties arising out of the Franchise Agreement dated 30.11.2017 ['the Agreement'] executed between the parties.

2. It is stated that the Petitioner is engaged in business of developing and operating premium fine-dining and casual-dining restaurant brands. It is stated that Respondent is engaged in the F&B business as an investor and approached the Petitioner, to obtain a franchise for the restaurant, Farzi Cafe.

3. It is stated that for the said purpose, the Petitioner and the Respondent



entered into a Franchise Agreement dated 30.11.2017.

4. It is stated that since the Respondent defaulted in making timely payments, disputes arose between the parties.

5. It is stated that the arbitration agreement is recorded in Clause 27 of the Franchise Agreement. Since, there were disputes between the parties, the Petitioner invoked arbitration vide notice dated 31.01.2025.

6. Learned counsel for the Petitioner states that the value of the claims of the Petitioner is approximately Rs. 1.5 Crores. He prays that this Court be pleased to appoint an Advocate as a Sole Arbitrator for adjudication of the disputes between the parties herein.

7. In reply, learned counsel for the Respondent states that the alleged notice dated 31.01.2025, under Section 21 of the Act of 1996 was not received by the Respondent and therefore, the Respondent was unable to reply to the notice dated 31.01.2025. He states that neither the e-mail was received nor the post was delivered. He states that the e-mail is also not found in the SPAM folder of the recipient.

8. In response, learned counsel for the Petitioner submits that the Respondent was duly served with the notice dated 31.01.2025 on the Respondent's email id, which is available at the website of Ministry of Corporate Affairs and other e-mail addresses. He states that the e-mail was delivered and has not bounced back. He states that the legal notice was also sent by post but was received back. He states that he can readily show the Respondent the due service of the e-mail as he has access to the e-mail account of the sender.

9. At this stage, the matter was passed over to enable the counsel for the Respondent to verify the issuance of notice dated 31.01.2025 *via* e-mail,



from the e-mail account of the sender.

10. At second call, after verifying the e-mail account of the sender, learned counsel for the Respondent fairly does not press the submission of non-invocation of the arbitration clause. He however, states that since the Respondent did not have an opportunity to respond to the said notice, its response to the contents of the notice could not be placed on record. He states that since the arbitration agreement is admitted, the parties may be referred to Arbitration. He states that the rights of the Respondent to respond to the said allegations in notice dated 31.01.2025 during arbitration be reserved.

11. This Court has heard the learned counsels for the parties and perused the record.

12. The Arbitration clause i.e., Clause 27 of the Agreement clearly stipulates that all claims or disputes arising out of the Agreement shall be resolved through Arbitration. The said Clause 27 reads as under: -

“27. GOVERNING LAW AND DISPUTE RESOLUTION

27.1 Governing Law

All matters relating to this Agreement shall be governed and construed in accordance with Indian law. The Courts in Delhi alone shall have exclusive jurisdiction for all and any matters arising out of or concerning or relating to or touching this Agreement.

27.2 Arbitration

27.2.1 Amicable Resolution of Disputes: If any dispute arises in relation to or in connection with this Agreement including in respect of the validity, interpretation, implementation or alleged material breach of any provision of this Agreement or regarding a question, and including the questions as to whether the termination of this Agreement by one party hereto has been legitimate arising out of this Agreement (a “**Dispute**”) between the Parties (“**Disputing Parties**”), the Disputing Parties shall attempt to first resolve such dispute or claim through negotiations and discussions.

27.2.2 Arbitration: If the Dispute is still not resolved through



negotiations and discussions as provided for under Clause 27.2.1 above after 30 (thirty) days, then any Disputing Party shall submit the claim or Dispute to be finally settled by arbitration. Such arbitration shall be governed by the Arbitration and Conciliation Act, 1996 as in force at the time of any such arbitration. The seat of arbitration shall be New Delhi. The Dispute shall be referred to a sole arbitrator appointed with the mutual consent of the Parties or, in case Parties are unable to agree upon the appointment of the sole arbitrator within 30 (thirty) days of receipt of the Dispute Notice by the other Party, either of the Parties may approach a court of Law having jurisdiction over the matter for appointment of the sole arbitrator (“Arbitrator”).”

(Emphasis Supplied)

13. Notice in the present matter was issued on 26.03.2025. Today, learned counsels for the parties submit that the Court may proceed with appointment of an Arbitrator as the Sole Arbitrator and the arbitration proceedings be held under the aegis of Delhi International Arbitration Centre (‘DIAC’).

14. In view of the aforesaid submissions of the parties and in terms of the arbitration clause in the Agreement, this Court deems it appropriate to appoint a sole arbitrator. Accordingly, **Mr. Sarad k. Sunny, Advocate** [Mob. No. 9958178853, Email id – saradksunny@gmail.com] is appointed as the Sole Arbitrator to adjudicate the disputes between the parties.

15. The disputes between the parties under the said agreement are referred to the sole arbitrator, with the following directions: -

- a) The arbitral proceedings will be held under the aegis of the DIAC. The arbitral proceedings will be governed by the rules of DIAC.
- b) The remuneration of the Sole Arbitrator shall be in terms of Schedule IV of the Act of 1996, as amended by the Rules of DIAC.
- c) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act of 1996 before entering into the reference and in the event, there is any impediment to the appointment of on that count, the parties are given liberty to file an



appropriate application in this Court.

- d) The statement of claim will be filed within four (4) weeks.
- e) The parties are directed to appear before the learned Arbitrator for preliminary hearing on **29.05.2025 at 10:30 A.M.**
- f) Parties have notice of the next date of hearing before DIAC and will remain duly represented.

16. It is clarified that all rights and contentions of the parties, including on maintainability/arbitrability of the claims and on merits, are left open for adjudication by the learned Arbitrator and nothing said in this order is an expression on the merits of the case.

17. It is further clarified that in the peculiar facts of this case, non-response to the notice dated 31.01.2025 shall not be construed as an admission of the Respondent of the allegations on merits contained in the said notice; and the right of the Respondent to respond to the said allegations on merits during arbitration proceedings is reserved.

18. Copy of this order be sent to the learned Arbitrator and Organizing Secretary, DIAC for information and compliance.

19. With the aforesaid directions, this petition stands disposed of.

20. The digitally signed copy of this order, duly uploaded on the official website of the Delhi High Court, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for purpose of ensuring compliance. No physical copy of order shall be insisted by any authority/entity or litigant.

MANMEET PRITAM SINGH ARORA, J

APRIL 25, 2025/mt/MG

Click here to check corrigendum, if any