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

+ ARB.P. 415/2024

M/S PROFICIENCY LEARNING SOLUTIONS
PVT LTD

.....Petitioner

Through: Mr. Himanshu Mahajan and
Mr. Dheeraj Singh, Advocates.

versus

M/S FUTURE AND ANR

.....Respondents

Through: None.

CORAM:

HON'BLE MS. JUSTICE JYOTI SINGH

ORDER

11.08.2025

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1. This petition is filed on behalf of the Petitioner under Section 11(6) of Arbitration and Conciliation Act, 1996 ('1996 Act') for appointment of an Arbitrator.

2. To the extent necessary, the facts as pleaded in the petition are that a Customer Registration Form and Agreement was executed between the parties in January/February, 2019 for supply of educational books. Between 17.02.2019 to 07.05.2021, educational books worth Rs.19,96,384.10/- were supplied by the Petitioner to the Respondents through various consignments. Respondents made payments in various tranches amounting to a sum of Rs.3,10,944.95/-. Respondents returned unsold books worth Rs.4,11,912.20/- to the Petitioner. Petitioner sent various reminders for outstanding payment of amount of Rs. 9,87,341.40/- with interest followed by legal notice dated 02.08.2023 but payment was not made. On 29.08.2023,



Petitioner invoked Arbitration Clause 17 in the Agreement and sent a notice under Section 21 of 1996 Act, calling upon the Respondents to appoint an Arbitrator with mutual consent, but to no avail and present petition was filed thereafter.

3. Notice was issued in this petition to the Respondents on 28.03.2024, however, Respondents were unserved till 07.05.2024, on which date fresh notice was issued through all permissible modes, returnable on 08.07.2024. On the returnable date, as per affidavit of service filed by the Petitioner, Respondents were served through Speed Post and approved courier, however, none appeared on behalf of the Respondents. In the interest of justice, adverse order was deferred and matter was adjourned to today, making it clear that if Respondents were unrepresented on the next date, Court will proceed in the matter.

4. This is the second call of the matter. None appeared for the Respondents on the first call and none appears on the second call. It appears that Respondents are not interested in contesting the petition and are accordingly set *ex parte*.

5. The agreement in question incorporated an arbitration clause, which is extracted hereunder, for ready reference:-

17. Any dispute arising out of this agreement shall be referred to the Sole Arbitrator appointed by the High Court of Delhi as per the Indian Arbitration & Conciliation Act, 1996, as amended from time to time. The venue of the arbitration shall be Delhi and Language shall be English. The decision of the Arbitrator shall be final and binding on both the parties. The expenses of arbitration shall be borne by the defaulting party or in case of a settlement by both the parties equally."

6. Invocation notice dated 29.08.2023 under Section 21 of 1996 Act sent by the Petitioner was duly received by the Respondents, as per proof



appended to the petition. There was failure of the Respondents to act in terms of the notice and they have chosen to remain away from these proceedings. Since an arbitration agreement exists between the parties, there is no impediment in appointing an Arbitrator in light of the judgment of the Supreme Court in ***SBI General Insurance Co. Ltd. v. Krish Spinning, 2024 SCC OnLine SC 1754.***

7. Accordingly, Shri Aman Mehta, Advocate (Mobile No. 8155069478) is appointed as the Sole Arbitrator to adjudicate the disputes between the parties. Arbitral proceedings will be held under the aegis of Delhi International Arbitration Centre ('DIAC'). Fee of the Arbitrator shall be fixed as per fee schedule under DIAC (Administrative Cost & Arbitrators' Fees) Rules 2018.

8. Learned Arbitrator shall give disclosure under Section 12 of the 1996 Act before entering upon reference.

9. It is made clear that this Court has not expressed any opinion on the merits of the case and all rights and contentions of the respective parties are left open.

10. Petition is disposed of in the aforesaid terms.

JYOTI SINGH, J

AUGUST 11, 2025
Shivam/Ch

