



\$~6

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

+ **ARB.P. 581/2025 & I.A. 8398/2025**

ANIL AGGARWAL & ANR.

.....Petitioners

Through: Mr. Nishant Nain, Advocate
(Through VC)

versus

WHITE FOX LABS PRIVATE LIMITED & ORS.

.....Respondents

Through: Mr. Thakur Ankit Singh and Mr.
Anubhav Dubey, Advs.

CORAM:

HON'BLE MS. JUSTICE MANMEET PRITAM SINGH ARORA

ORDER

%

24.04.2025

I.A. 8398/2025 (Application on behalf of Petitioners under section 151 Code of Civil Procedure, 1908 read with Section 5 of the Limitation Act, 1963 seeking condonation of delay in re-filing the present petition.)

1. The present application has been filed by the Petitioners under Section 151 Code of Civil Procedure, 1908 ('CPC') read with Section 5 of the Limitation Act, 1963 seeking condonation of delay of six (6) days in re-filing the present petition.
2. For the reasons stated in the application, the delay of six (6) days in re-filing the petition is condoned and the application is allowed.
3. Accordingly, the application stands disposed of.

ARB.P. 581/2025

4. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 ('Act of 1996') for the appointment



of Sole Arbitrator in terms of Clause '11' of the Settlement Agreement dated 04.08.2021 (Settlement Agreement) to adjudicate the disputes between the parties.

5. It is stated that the Directors of the Respondent No.1 Company i.e., Mr. Arjun Jain and Mr. Aman Kumar entered into two (2) transactions with the Petitioners and defaulted in the repayment of the amount advanced. It is stated that after multiple attempts, to resolve the issues at hand, the parties entered into the Settlement Agreement. It is stated that however, the terms of the said Settlement Agreement have not been complied with.

6. It is stated that the Petitioners thereafter, issued a Notice dated 05.12.2024 under Section 21 of the Act of 1996 in terms of Clause 11 of the Settlement Agreement invoking arbitration.

7. It is stated that the Petitioners have assessed the claims to the tune of Rs. 4.5 Crores (approx.).

8. Mr. Thakur Ankit Singh, learned counsel for the Respondents has entered appearance.

8.1. He states that Respondents have no objection to reference of the disputes to the Arbitration. He states Respondents also have counter-claims. He states however, he has submission vis-à-vis reference of Respondent Nos. 4 and 6 to Arbitration.

8.2. He states that though Respondent No. 4 is the erst-while partner of Respondent No. 4 firm; however, she is not signatory to the Settlement Agreement dated 04.08.2021 which contains the arbitration agreement i.e., Clause '11' of the Settlement Agreement, therefore, she cannot be made a party to the arbitration proceedings. He states that currently Respondent No. 4 is not a partner of the Respondent No. 4, firm though, at the relevant time



in 2021, she was a partner.

8.3. He further states that Respondent No. 6 has been struck off by the Registrar of Companies ('ROC') vide notification dated 05.09.2022. He however admits that Mr. Arjun Jain and Mr. Aman Kumar are Directors of the Respondent No.1 Company and they are already parties to arbitration agreement.

8.4. He states that the Respondents dispute the allegations in this petition and reserve their rights to respond on merits during arbitration. He states that Respondents have Counter Claims to the tune of Rs. 6 Crores approximately.

9. This Court has heard the learned counsels for the parties and perused the records.

10. Upon perusal of the Clause '11' of the Settlement Agreement this Court is satisfied that there exists an arbitration agreement between the parties and the said clause has been duly invoked by the Petitioners by issuing the notice dated 05.12.2024. Further the said Clause shows that the parties have agreed that the seat of Arbitration is New Delhi.

11. The objection raised by the learned counsel for the Respondents, contending that Respondent No.4 cannot be referred to arbitration on the ground that she is not a signatory to the Settlement Agreement contained the arbitration clause, does not commend itself to this Court. (**Re: KKH Finvest Pvt. Ltd. v. Jonas Haggard¹**). In the facts of this case, parties entered into a settlement agreement dated 14.03.2020, wherein, Respondents acknowledge their liability to repay amounts to the Petitioners. Respondent No. 5, the partnership firm was a signatory to this agreement and admittedly,



Respondent No. 4 herein was a partner of the firm at the relevant time and this fact is recorded in the said agreement. Since, the said agreement was not performed, parties entered into the settlement agreement dated 04.08.2021 and Respondent No. 5 partnership firm was also the party to this agreement dated 04.08.2021. Respondent No. 4 as a partner of the firm will prima facie continue to remain liable for the liabilities of the said firm towards the Petitioner as per Chapter-IV of the Indian Partnership Act, 1932. There is no material on record to show that Respondent No. 4 had ceased to be a partner of Respondent No. 5 firm on 04.08.2021 and this fact was brought to the knowledge to the Petitioners. Thus, Respondent No. 4 is also prima facie liable to be referred to Arbitration.

12. Further, the fact that Respondent No.6 has been struck off by the ROC has no bearing on the proceedings of the present case in view of Section 250 of the Companies Act, 2013, which states that even if the company is dissolved or struck off, it does not cease to operate qua discharge of liabilities and obligations. Moreover, in view of Section 248(7) of the Companies Act, 2013, the officers including Directors of the company continue to remain liable to the creditors. In this case, the Directors of this company have also been impleaded as Respondent Nos. 2 and 3. Thus, Respondent No. 6 is also prima facie liable to be referred to Arbitration along with its Directors i.e., Respondent Nos. 2 and 3.

13. In view of the aforesaid, considering the fact that the arbitration agreement forms part of the Settlement Agreement and it is mentioned in the said Settlement Agreement that a Sole Arbitrator is to be appointed for the adjudication of the disputes, therefore, the present petition is allowed with

¹ 2024 SCC OnLine Del 7254.



the consent of the parties, following directions are passed:

14. This Court deems it appropriate to appoint Justice Mukta Gupta, Former Judge, High Court of Delhi [Mob. No. 9650788600] 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:

(i) The arbitral proceedings will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah Road, New Delhi ('DIAC'). The arbitral proceedings will be governed by the Rules of DIAC.

(ii) 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.

(iii) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act of 1996 before entering into the reference.

(iv) The Statement of Claim will be filed by the Petitioners within four (4) weeks. The Respondents will file their Statement of Defence within a period of four (4) weeks, thereafter.

(v) The parties are directed to appear before the learned Arbitrator for preliminary hearing on **26.05.2025 at 06:00 P.M.**

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

18. Copy of the order be sent to the learned Arbitrator and organizing secretary DIAC for information and compliance.

19. 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 24, 2025/sk

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