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

+ **ARB.P. 617/2025 with I.A. 17168/2025**

PEPSICO INDIA HOLDINGS PVT. LTD.Petitioner

Through: **Mr. Gaoraang Ranjan and Mr. Rajneesh Kumar, Advocates.**

versus

M/S. NEW SHOP CSTORE

NETWORK PRIVATE LIMITEDRespondent

Through: **Mr. Aman Kumar Thakur, Mr. Brahm Prakash Bhardwaj and Mr. Abhishek, Advocates.**

CORAM:

HON'BLE MR. JUSTICE AMIT BANSAL

ORDER

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05.08.2025

1. The present petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 (hereinafter '**Act**') seeking appointment of a Sole Arbitrator for adjudication of disputes between the parties arising out of an agreement titled Terms of Trade entered into between the parties on 28th February, 2022 (hereinafter '**Agreement**') in terms of which the petitioner had agreed to supply its products to the respondent for sale and distribution and the respondent agreed to make payments against the invoices raised by the petitioner within 30 days from the date of receipt of such invoices.
2. Counsel for the petitioner submits that the Agreement contains an arbitration clause in paragraph 2(w), which provides for adjudication of any



dispute arising between the parties by way of arbitration. Paragraph 2(w) of the Agreement is set out below:

“(w) TNS agrees that any dispute of any nature arising out of or in connection with the TOT including any question regarding its existence, validity or termination will be referred to and finally settled under the provisions of Indian Arbitration and Conciliation Act, 1996. The seat of arbitration shall be appointed by mutual consent of parties.”

3. It is submitted that the respondent failed to pay the amount towards the invoices raised by the petitioner, details of which are given in paragraph no.7 of the petition.

4. Due to the aforesaid, the petitioner sent a notice dated 18th January, 2025 via courier as well as email to the respondent invoking the aforesaid arbitration clause under Section 21 of the Act.

5. It is submitted that the aforesaid notice was duly served upon the respondent. However, despite the aforesaid, the respondent neither replied to the said notice nor did it agree for appointment of an Arbitrator. Under these circumstances, the petitioner has been constrained to approach this Court under Section 11(6) of the Act.

6. Notice in the present petition was issued to the respondent on 20th May, 2025.

7. Counsel for the respondent entered appearance on 22nd July, 2025 and does not dispute the existence of the aforesaid arbitration clause.

8. Taking into account the amount involved in the dispute, it is deemed appropriate that the parties explore settlement through mediation.

9. Counsel for the parties submit that the present petition may be disposed of with a reference to the Delhi International Arbitration Centre (hereinafter '**DIAC**'), *albeit* with the appointment of a Sole Arbitrator being



deferred by eight (8) weeks.

10. Accordingly, with the consent of the parties, the matter is referred for mediation to Delhi High Court Mediation and Conciliation Centre (hereinafter '**Mediation Centre**').

11. List before the Mediation Centre on 12th August, 2025 at 3:00 P.M.

12. As already noted above, it is admitted by the parties that there exists a valid arbitration clause in the Agreement and thus, the parties are referred to arbitration under the aegis of DIAC. However, keeping in view the reference to mediation, the DIAC is directed to appoint a Sole Arbitrator in the third week of October 2025.

13. The parties and the Mediator are directed to conclude the mediation proceedings within two (2) months from today, *i.e.*, on or before 5th October, 2025. The report of the Mediator shall be sent to the DIAC on or before 13th October, 2025.

14. It is directed that in case the parties do not settle their dispute in the mediation proceedings by 5th October, 2025, the DIAC shall proceed to appoint a Sole Arbitrator and constitute the Arbitral Tribunal in the third week of October 2025 and the parties will appear before the DIAC on 28th October, 2025 at 3:00 P.M. for a preliminary hearing.

15. Needless to state, all pleas of the parties *qua* claims and counter-claims are left open and shall be considered in the arbitration proceedings.

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

17. All pending applications stand disposed of.

18. A copy of this order be sent to the Organising Secretary of the Mediation Centre and the DIAC for information and compliance.

19. The digitally signed copy of this order, duly uploaded on the official



website of the High Court of Delhi, www.delhihighcourt.nic.in, shall be treated as a certified copy of the order for the purpose of ensuring compliance. No physical copy of the order passed today shall be insisted for by any authority/ entity/ litigant.

AMIT BANSAL, J

AUGUST 5, 2025

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