



\$~4

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

+ **ARB.P. 1399/2024**

M/S DATAGEN INTERNET SERVICES PVT. LTDPetitioner

Through: Mr. Satvinder Singh, Mr. Simran Jot Singh, Mr. Piyush Singh, Adv.

versus

NETTYFISH & ORS.Respondent

Through: Mr. Raja Rajeshwaram, Adv.

CORAM:

HON'BLE MR. JUSTICE JASMEET SINGH

ORDER

15.04.2025

%

1. This is a petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 seeking appointment of an Arbitrator for adjudication of disputes between the parties arising out of the Agreement dated 20.09.2023.

2. The arbitration clause is contained as clause 17 of the Agreement and the same reads as under:

“ARBITRATION 17

All disputes arising out of this agreement shall be amicably settled at the first instance by mutual discussions and negotiations. In the event the dispute is not resolved then the same may be referred in accordance with the provisions of the arbitration and conciliation act or any enactment of statutory modification thereof The arbitration proceedings shall be in the English language and shall be held at Delhi. The award of the sole arbitral tribunal shall be final and binding upon the parties to this Agreement. As per the 16 clause of the agreement dated 20.09.2023, it is agreed by and between the parties herein that the courts at Delhi shall have the exclusive jurisdiction in respect of any matter, claim or dispute arising out of or in any way, relating to this



Agreement.”

3. The facts are that an Agreement dated 20.09.2023 came to be executed between the parties, whereby the petitioner was to provide telecommunication services to the respondent(s). The agreement was executed at Chennai. Since the respondent(s) defaulted in making payments of the invoices raised by the petitioner, the petitioner invoked arbitration vide legal notice dated 09.05.2024.

4. Since, the seat of the arbitration as per the arbitration clause is Delhi, the present petition has been filed.

5. Mr. Rajeshwaram, learned counsel appears for respondent Nos. 1,2 and 3 and states that the petitioner has already initiated proceedings under Section 18 of the MSME Act before the MSME Facilitation Council.

6. Mr. Singh, learned counsel appearing on behalf of the petitioner, submits that the petitioner will be withdrawing the reference/application filed under Section 18 before the MSME Facilitation Council and seeks to pursue the present petition. His statement is taken on record.

7. I am satisfied that there are disputes between the parties and the same can be resolved by way of arbitration mechanism.

8. For the said reasons, the petition is allowed and the following directions are issued:-

- i) Mr. Varun Chopra (Advocate) (Mob. No. 9811851711) is appointed as a Sole Arbitrator to adjudicate the disputes between the parties.
- ii) The arbitration will be held under the aegis of the Delhi International Arbitration Centre, Delhi High Court, Sher Shah



Road, New Delhi (hereinafter, referred to as the 'DIAC') and as per DIAC rules.

- iii) The remuneration of the learned Arbitrator shall be in terms of DIAC (Administrative Cost and Arbitrators' Fees) Rules, 2018.
- iv) The learned Arbitrator is requested to furnish a declaration in terms of Section 12 of the Act prior to entering into the reference.
- v) 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, legal submissions and merits of the dispute of either of the parties, are left open for adjudication by the learned arbitrator.

9. Learned counsel for the respondent(s) submits that before the arbitration commences, the parties may be referred to mediation.

10. Since, there is a request for mediation, the parties will appear before the Delhi High Court Mediation and Conciliation Centre on 25.04.2025 at 3:30 p.m. In case the matter is not settled before the Delhi High Court Mediation and Conciliation Centre, the Arbitrator shall enter reference after 6 weeks from today.

11. The present petition is disposed of in the aforesaid terms

JASMEET SINGH, J

APRIL 15, 2025/sp