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

% *Date of decision:17th May, 2024*

+ **ARB.P. 481/2024**

DELHIVERY LIMITED..... Petitioner

Through: Mr. Sukrit R. Kapoor and Mr. Aviral
Tripathi, Advocates.

versus

FAR LEFT RETAIL PRIVATE LIMITED Respondent

Through: None

CORAM:
HON'BLE MS. JUSTICE NEENA BANSAL KRISHNA

J U D G M E N T (oral)

1. The Petition under Section 11(5) of the Arbitration and Conciliation Act, 1996 (*hereinafter referred to as 'the Act'*) has been filed on behalf of the petitioner, for appointment of Sole Arbitrator.

2. It is submitted in the application that the petitioner is a Delhivery Limited, a Company incorporated under the Companies Act, 1956 (CIN: L63090DL2011PLC221234) with registered address at Unit Nos. N24-N34, S24-S34, Air Cargo Logistics Centre-II, Opposite Gate 6 Cargo Terminal, IGI Airport, New Delhi-110037, also at Plot No.5, Sector-44, Gurugram, Haryana-122002, which is engaged in providing diversified logistics

services.

3. The respondent is Far Left Retail Private Limited, is a listed company incorporated under the provisions of Companies Act, 2013 (CIN: U74999MH2017PTC296663) with registered address at Ground Floor, 3346/5A/5B, Bharat Coal Compound, Bail Bazar, Kurla West, Mumbai City, Maharashtra, 400070, which is engaged in the business of Home Decor and Gifting Products.

4. The petitioner and the respondent entered into an Agreement *vide* Service Agreement dated 17.06.2022 and dispute arose.

5. The respondent has failed to make payment towards the invoices raised by the petitioner in accordance with the terms and conditions of the Service Agreement.

6. Thereafter, the petitioner sent various email communications dated 10.11.2022, 14.11.2022, 16.11.2022, 19.11.2022, 23.11.2022, 24.11.2022, 25.11.2022, 29.11.2022, 30.11.2022, 02.12.2022, 05.12.2022, 06.12.2022 and 24.01.2023, to the respondent. The respondent *vide* emails dated 09.11.2022, 19.11.2022 and 28.11.2022, admitted the legitimate arrears.

7. The petitioner thereafter issued a Demand Notice dated 30.12.2022 to the respondent. However, the respondent failed to amicably settle the dispute and failed to make payment against invoices to the tune of Rs.8,69,743.78/- aside from the delay interest payable at 15% p.a. till the date of realization as provided under the Clause 5.3 of the Service Agreement.

8. The petitioner has also issued Notice dated 27.10.2023, in accordance with Clause 19 of the Service Agreement and in compliance of

Section 21 of the Arbitration and Conciliation Act, 1996. However, no reply has been preferred by the respondent till date and he failed to make the payments in accordance with the payment terms of the Service Agreement, to which the respondent has not given any reply till date.

9. The petitioner invoked the Arbitration under the Service Agreement dated 17.06.2022 *vide* Notice dated 27.10.2023.

10. The respondent *vide* various communications dated 09.11.2022, 19.11.2022 and 05.12.2022 has admitted the arrears.

11. The petitioner has thus left no option to file the present Petition.

12. Affidavit of service has been filed by the petitioner and the respondent served through email despite which none has appeared on behalf of the respondent.

13. Learned counsel appearing on behalf of the petitioner submits that he has got an advance Reply along with an Application for condonation of delay from the learned counsel for the respondent, though, the same has not been filed.

14. Learned counsel for the petitioner has placed on record the copy of the Reply, which is to be taken on record.

15. It is submitted that there are two objections taken by the respondent that the procedure envisaged under the Arbitration Clause as of first making an endeavour for amicable settlement, has not been followed also the service is rendered on behalf of the petitioner, were not satisfactory.

16. **Submissions heard.**

17. As has been submitted on behalf of the petitioner, there are various emails and the legal notice, which have been placed on record sent by the petitioner, which have not been responded to by the respondent. In fact, the

endeavour has been made by the petitioner, for an amicable settlement before initiating the Arbitration proceedings. Sufficient compliance of the Arbitration Clause has been made.

18. The second objection in regard to the insufficiency of service, is on the merits, which the respondent is at liberty to take before the learned Arbitrator.

19. Considering that there is a valid Arbitration Agreement between the parties and in the light of the facts and discussions, the present petition is allowed.

20. The Coordinator, Delhi International Arbitration Centre is requested to appoint an Arbitrator in accordance with the provisions of the Act, 1996 for adjudication of the disputes between the parties.

21. The parties are at liberty to raise their respective objections before the Arbitrator.

22. The fees of the Arbitrator would be fixed in accordance with the Delhi International Arbitration Centre Rules.

23. This is subject to the Arbitrator making necessary disclosure as under Section 12(1) of the Act, 1996 and not being ineligible under Section 12(5) of the Act, 1996.

24. The Arbitration shall be conducted under the aegis of Delhi International Arbitration Centre within the High Court precinct.

25. Accordingly, the present petition is disposed of in the above terms.

(NEENA BANSAL KRISHNA)
JUDGE

MAY 17, 2024/RS