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

Date of decision: 04.12.2018

+ ARB.P. 545/2018

PALLAVI FIRMS & NURSERIES

..... Petitioner

Through Dr. Kedarnath Tripathy and Mr.
B.B. Pradhan, Advs.

versus

NATIONAL SEEDS CORPORATION LIMITED Respondent

Through Mr. Yashvardhan, Ms. Smita Kant,
Mr. Abhishek Praharaj and Mr.
Puneet Kumar, Advs.

CORAM:

HON'BLE MR. JUSTICE RAJIV SHAKDHER

RAJIV SHAKDHER, J.: (ORAL)

I.A. 16517/2018

1. This is an application for seeking condonation of delay in filing the reply.
- 1.1 The period of delay is 13 days.
- 1.2 For the reasons given in the application, the delay is condoned.
2. The Registry will place the reply on record.
3. The application is, accordingly, disposed of.

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4. Notice in this petition was issued on 31.7.2018 which was made returnable on 10.10.2018.

4.1 On 10.10.2018, learned counsel for the respondent was granted ten (10) days to file a reply.

4.2 As noted hereinabove, the reply is under objection and not on record.

4.3 The reason, perhaps, was that the reply was filed beyond the period allocated by this Court vide order dated 10.10.2018. However, counsel for the respondent, on being queried, says that the respondent's principal objection to the arbitration petition is that the claim which is sought to be placed before the Arbitral Tribunal is barred by limitation.

4.4 Learned counsel for the respondent, however, says that there is no dispute as regards the existence of an arbitration agreement.

5 I may only note that counsel for the petitioner says that the claim is within the period of limitation.

5.1 This argument is articulated on the basis that the agreement between the parties was executed on 14.6.2013, whereupon, supplies of paddy and lentils were made.

5.2 The claim of the petitioner emanates from the alleged withholding of amounts against the supplies made.

5.3 It is the petitioner's case that the respondent has wrongly withheld a sum of Rs.59,60,127.50.

6. The petitioner further avers that several request letters were served on the respondent. This being letters dated 16.4.2015, 2.9.2015 and 30.5.2016.

7. The petitioner also claims that since a notice dated 10.6.2016 triggering the arbitration agreement was served on the respondent and, therefore the claim is within limitation.

8. Learned counsel for the respondent, on the other hand, raises objections on the ground that since the instant petition was filed on 2.6.2018, the claim is barred by limitation.

8.1 According to me, *prima facie*, this submission is unsustainable.

9. However, given the fact that there is no dispute as to the existence of an arbitration agreement, I am inclined to allow the prayer.

10. Accordingly, Ms. Ravinder Kaur, (Cell no.:9910384660), former District & Sessions Judge, is appointed as the Arbitrator.

11. Since both the counsel are agreed that the arbitration proceedings should be held under the aegis of the Delhi International Arbitration Centre (in short 'Centre'), it is ordered accordingly.

11.1 Consequently, the rules and the fee schedule of the Centre would apply in this case.

12. The petition is disposed of in the aforesaid terms.

13. The Registry is directed to despatch a copy of this order to the Co-ordinator, DIAC and the learned Arbitrator.

RAJIV SHAKDHER
(JUDGE)

DECEMBER 04, 2018

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