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

Date of Decision: 8th September, 2025

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FAO (COMM) 222/2025

M/S AZURE HOSPITALITY PRIVATE LIMITEDAppellant
Through: Mr. Jaspreet Singh, Ms. Nandini Singh
& Mr. Keshav Tejpal, Advs.

versus

AMIT BHASIN, PROPRIETOR OF RETAIL INDIA
SOLUTIONSRespondent
Through: Mr. N.K. Vohra & Mr. Lalit Kumar
Vohra, Advs.

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AND

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FAO (COMM) 223/2025

M/S AZURE HOSPITALITY PRIVATE LIMITEDAppellant
Through: Mr. Jaspreet Singh, Ms. Nandini Singh
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versus

AMIT BHASIN PROPRIETOR OF RETAIL INDIA
SOLUTIONSRespondent
Through: Mr. N.K. Vohra & Mr. Lalit Kumar
Vohra, Advs.

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

JUDGMENT

Prathiba M. Singh, J.

1. This hearing has been done through hybrid mode.
2. These are two appeals under Section 37(1)(b) of the Arbitration and Conciliation Act, 1996 (*hereinafter 'the Act'*) challenging the impugned orders dated 4th August, 2025 passed by the Id. District Judge (Commercial Court-02)



Tis Hazari Courts (*hereinafter 'the Id. Commercial Court'*). The impugned orders are interim orders passed in Petitions under Section 9 of the Act. The same arise out of an arbitration clause contained in the two franchise agreements dated 31st January, 2022 (*hereinafter, 'the subject agreements'*).

3. The brief background of this case is that the Respondent had entered into two franchise agreements for opening of two outlets by the name '**Mamagoto**' and '**Dhaba**'. Disputes had arisen between the parties in respect of payment of franchise fee, etc. The Appellant preferred the petitions under Section 9 of the Act being, **OMP (I) (COMM) No. 863/2025** and **OMP (I) (COMM) No. 862/2025** as the subject agreements contained an arbitration clause. In these petitions, initially *vide* orders dated 22nd July, 2025, an interim injunction was granted by the Id. Commercial Court, in the following terms:

OMP (I) (COMM) No. 863/2025

"14. In the present case, the Agreement has been terminated by the petitioner. Since the petitioner is the owner of trade mark and had permitted the respondent to use the same during the tenure of Agreement, which has now been terminated by the petitioner, in considered opinion, a prima facie case is made out in favour of the petitioner. The balance of convenience also lies in favour of petitioner.

15. Accordingly, the respondent, its employees, successors, promoters, agents and any person claiming through or under them are hereby restrained from using/ publishing/ displaying/showing of trade mark MAMAGOTO at Gulshan One 29 Sector 129, Noida, Uttar Pradesh till next Date of Hearing."

OMP (I) (COMM) No. 862/2025

"14. In the present case, the Agreement has been terminated



by the petitioner. Since the petitioner is the owner of brand name and had permitted the respondent to use the same during the tenure of Agreement, which has now been terminated by the petitioner, in considered opinion, a prima facie case is made out in favour of the petitioner. The balance of convenience also lies in favour of petitioner.

15. Accordingly, the respondent, its employees, successors, promoters, agents and any person claiming through or under them are hereby restrained from using/ publishing/ displaying/showing of brand name DHABA ESTD.1986 at Gulshan One 29 Sector 129, Noida, Uttar Pradesh till next Date of Hearing.”

4. However, subsequently *vide* the impugned orders, the said injunctions have been vacated and the petitions under Section 9 of the Act have been dismissed.

5. Notice was issued in these appeals *vide* order dated 19th August, 2025.

6. On behalf of the Appellant, Id. Counsel relies upon various clauses of the subject agreements dated 31st January, 2022 executed between the parties in respect of establishing a restaurant under the brand name/ trade name ‘*Mamagoto*’ and ‘*Dhaba*’, including Clause 2.1 which recognizes that the Intellectual Property rights of the Appellant *qua* the said trade name continues to remain with the said party during the term of the subject agreement. It is also highlighted by Id. Counsel for the Appellant that in terms of Clause 4.1 of the subject agreements the ‘*Project Management Fee*’, there are two components, one is the ‘*Project Management Fees*’ and the second is the ‘*brand fees*’. While the Respondent has paid the one-time brand fees, the Project Management Fees has only been paid till November, 2024 and thus, the Appellant had terminated the subject agreements on 1st March, 2025.



7. Since there was termination of the subject agreements, one of the consequences of the same is that the right of the Respondent to use the brand name of the Appellant ceases in terms of Clause 6.5 (a).

8. The relevant clauses of the subject agreements relied upon by the Id. Counsel are as under:

Franchise Agreement- 'Mamagoto'

2.1 License.

(a) Trade name usage rights. Subject to the terms and conditions of this Agreement, Project Manager hereby grants a limited, exclusive license to the Franchisee to use the Trade name, "Mamagoto", with respect to the Restaurant, during the Term of the Agreement only in connection with the Project as mentioned herein before in this Agreement. The IP Rights Including all the goodwill in the aforesaid Trade names shall remain with the Project Manager and the Franchisee is a limited user of the Trade names only with respect to the Project till the tenure of this agreement. Provided that such License shall only be valid until such time that this agreement is terminated otherwise and subject to the terms and conditions in connection with the License set out in this Agreement being adhered to."

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"4.1 Fees. In consideration of the performance of its Management Services hereunder, Project Manager shall receive a project management fees as under:

- *1st Month - 0%*
- *2nd - 4th Month - 4% + GST of the Monthly Revenue (net of taxes) payable to the Franchisor on a monthly basis.*
- *5th Month onwards - 7% + GST of the Monthly Revenue (net of taxes) payable to the Franchisor on a monthly basis. ("Project Management Fees"), payable to the Project Manager by the Franchisee in accordance with the Article Four (A) (Escrow Mechanism) below.*

In addition to the above, the Franchisee agrees to pay to the



Project Manager one-time brand fees of INR 30 Lakhs plus GST as under:

<i>Sl. No.</i>	<i>Amount</i>	<i>Time of payment</i>
<i>1.</i>	<i>Rs. 15 Lakhs GST</i>	<i>Payable at the time of signing of this Franchise Agreement</i>
<i>2.</i>	<i>Rs 7.5 Lakhs GST</i>	<i>Payable before opening</i>
<i>3.</i>	<i>Rs. 7.5 Lakhs GST</i>	<i>Payable on or before 90th day of opening</i>

(a) Invoicing. The Project Manager shall be entitled to raise an invoice for the Project Management Fees for the Restaurant at any time after the end of the month for an amount aggregating to the payment received by the Project Manager from the Escrow Account in the manner contemplated under Article Four (A) (Escrow Mechanism) below and the Escrow Agreement, during the relevant month which will be reconciled at the end of each month.

(b) Co-operation. The Franchisee shall fully cooperate with the Project Manager to provide the Project Manager with adequate access to accounts and records, as may be required from time to time by the Project Manager in order to raise the invoices with regard to the Fees as specified in Clause 4.1 of the Agreement

(c) Currency. All the amounts payable under the Agreement by the Franchisee to the Project Manager shall be paid in Indian Rupees.

(d) Taxes. All the amounts payable under the Agreement by the Franchisee to the Project Manager will be paid net of, after deducting tax at source as per the Income Tax Act, 1961, In the event, the Franchisee is required under any law, rule or regulation for the time being in force, to deduct any tax at source on amounts payable under this Agreement ("TDS"), the



Franchisee shall (a) deduct TDS on all such payments; (b) deposit such TDS with the concerned authority in accordance with the applicable rules and regulations prescribed in respect thereof, and (c) submit the proof of deposit for such TDS ("TDS Certificate") to the Project Manager within 90 (Ninety) days from such TDS deduction. The Franchisee hereby acknowledges that the Project Manager shall provide credit for any such payments in its books for the TDS to the Franchisee on receipt of original/digitally signed TDS Certificate and its due reflection on the NSDL website (Form 26AS)."

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"6.5 (a) Once this Agreement has been terminated for any reason whatsoever, the Parties acknowledge and agree that all licenses and rights granted under this Agreement including Clause 2 shall cease and the Franchisee's right to use the IP in its entirety Including the Trade Names and all other related materials granted by the Project Manager shall immediately cease;"

Franchise Agreement- 'Dhaba'

"2.1 License.

(a) Trade name usage rights. Subject to the terms and conditions of this Agreement, Project Manager hereby grants a limited, exclusive license to the Franchisee to use the Trade name, "Dhaba- Estd. 1986 Delhi", with respect to the Restaurant, during the Term of the Agreement only in connection with the Project as mentioned herein before in this Agreement. The IP Rights including all the goodwill in the aforesaid Trade names shall remain with the Project Manager and the Franchisee is a limited user of the Trade names only with respect to the Project till the tenure of this agreement. Provided that such License shall only be valid until such time that this agreement is terminated otherwise and subject to the terms and conditions in connection with the License set out in this Agreement being adhered to."

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“4.1 **Fees.** In consideration of the performance of its Management Services hereunder, Project Manager shall receive a project management fees as under:

- 1st Month - 0%
- 2nd - 4th Month - 4% + GST of the Monthly Revenue (net of taxes) payable to the Franchisor on a monthly basis.
- 5th Month onwards - 7% + GST of the Monthly Revenue (net of taxes) payable to the Franchisor on a monthly basis.

(“Project Management Fees”), payable to the Project Manager by the Franchisee in accordance with the Article Four (A) (Escrow Mechanism) below.

In addition to the above, the Franchisee agree to pay to the Project Manager a one-time brand fees of INR 30 Lakhs plus GST as under:

Sl. No.	Amount	Time of payment
1.	Rs. 15 Lakhs + GST	Payable at the time of signing of the Franchise Agreement
2.	Rs. 7.5 Lakhs + GST	Payable before opening
3.	Rs. 7.5 Lakhs + GST	Payable on or before 90 th day of opening

(a) *Invoicing.* The Project Manager shall be entitled to raise an invoice for the Project Management Fees for the Restaurant at any time after the end of the month for an amount aggregating to the payment received by the Project Manager from the Escrow Account in the manner contemplated under Article Four (A) (Escrow Mechanism) below and the Escrow Agreement, during the relevant month which will be reconciled at the end of each month.

(b) *Co-operation.* The Franchisee shall fully cooperate with the Project Manager to provide the Project Manager with adequate access to accounts and records, as may be required from time to time by the Project Manager in order to raise the invoices with regard to the Fees as specified in Clause 4.1



of the Agreement.

(c) Currency. All the amounts payable under the Agreement by the Franchisee to the Project Manager shall be paid in Indian Rupees.

(d) Taxes. All the amounts payable under the Agreement by the Franchisee to the Project Manager will be paid net of, after deducting tax at source as per the Income Tax Act, 1961. in the event, the Franchisee is required under any law, rule or regulation for the time being in force, to deduct any tax at source on amounts payable under this Agreement ("TDS"), the Franchisee shall (a) deduct TDS on all such payments; (b) deposit such TDS with the concerned authority in accordance with the applicable rules and regulations prescribed in respect thereof; and (c) submit the proof of deposit for such TDS ("TDS Certificate") to the Project Manager within 90 (Ninety) days from such TDS deduction. The Franchisee hereby acknowledges that the Project Manager shall provide credit for any such payments in its books for the TDS to the Franchisee on receipt of original/digitally signed TDS Certificate and its due reflection on the NSDL website (Form 26AS)."

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"6.5(a) Once this Agreement has been terminated for any reason whatsoever, the Parties acknowledge and agree that all licenses and rights granted under this Agreement including Clause 2 shall cease and the Franchisee's right to use the IP in its entirety including the Trade Names and all other related materials granted by the Project Manager shall Immediately cease;"

9. On behalf of the Respondent on the other hand, it is submitted by Id. Counsel that there is a lock-in period of three years from the commencement of operations of the subject Restaurant as per Clause 6.1 of the subject agreements. In addition, it is submitted that the Project Management Services



in respect of the subject Restaurant were not rendered by the Appellant in terms of the subject agreements and therefore, the fee towards Project Management has not been paid after November, 2024. The relevant clause relied upon by the Id. Counsel are as under:

Franchise Agreement- 'Mamagoto'

“6.1 Term. The term of this Agreement (including any exercised renewal periods then in effect, the "Term") shall commence on the Effective Date and shall be for a period of 7 years + 2 additional years as mutually agreed and may be renewed for a further period of 6 years as may be mutually agreed between the parties hereto. This Agreement shall be subject to a lock-in period of 3 years from the commencement of operations of the Restaurant. ("Lock-In")

In case the tenure of the Lease of the Franchisee for the property on which the Restaurant is being operated is less than the term of this Agreement as mentioned above and the Franchisee is unable to obtain its renewal for an additional term concurrent with the Term of this Agreement, the Franchisee shall intimate to the Project Manager, at least 12 months prior to the expiry of the said Lease, its intention to relocate the Restaurant to a new site which shall be finalized with mutual consent of both the parties hereto.

Both the parties hereto shall make best efforts to finalize the site in a timely manner such that the Lease/License execution for the new site, possession thereof and completion of fit-out works is done before the expiry of the Lease Term for the existing Restaurant and the operations can be commenced immediately at the new site post the expiry of the existing site lease.

If both the parties are not able to finalize the new site and lease deed executed thereof before the expiry of the existing lease, unless timeline is extended by the Project Manager at its own discretion, the Project Manager shall be entitled to terminate



this Agreement forthwith.”

Franchise Agreement- ‘Dhaba’

6.1 Term. *The term of this Agreement (including any exercised renewal periods then in effect, the "Term") shall commence on the Effective Date and shall be for a period of 7 years + 2 additional years as mutually agreed and may be renewed for a further period of 6 years as may be mutually agreed between the parties hereto. This Agreement shall be subject to a lock-in period of 3 years from the commencement of operations of the Restaurant. ("Lock-In")*

In case the tenure of the Lease of the Franchisee for the property on which the Restaurant is being operated is less than the term of this Agreement as mentioned above and the Franchisee is unable to obtain its renewal for an additional term concurrent with the Term of this Agreement, the Franchisee shall intimate to the Project Manager, at least 12 months prior to the expiry of the said Lease, its intention to relocate the Restaurant to a new site which shall be finalized with mutual consent of both the parties hereto.

Both the parties hereto shall make best efforts to finalize the site in a timely manner such that the Lease/License execution for the new site, possession thereof and completion of fit-out works is done before the expiry of the Lease Term for the existing Restaurant and the operations can be commenced immediately at the new site post the expiry of the existing site lease.

If both the parties are not able to finalize the new site and lease deed executed thereof before the expiry of the existing lease, unless timeline is extended by the Project Manager at its own discretion, the Project Manager shall be entitled to terminate this Agreement forthwith.

10. It is further submitted by the Id. Counsel for the Respondent that since



the Respondent has duly paid the one-time brand fee to the tune of Rs. 30 lakhs *qua* the use of the subject brand name, the Respondent ought to be permitted to use the same.

11. After hearing the *ld.* Counsels of both parties on the last date *i.e.*, 26th August, 2025, the Court directed as under:

“8. Heard the ld. Counsels for the parties. After hearing, ld. Counsel for both the Parties, prima facie, the Court is of the opinion that the Franchise agreement having been terminated due to non-payment of the Project Management Fees, the subject brand name cannot be continued to be used indefinitely by the Respondent.

9. However, certain proposals have been discussed by both the ld. Counsels upon queries put forth by the Court. Accordingly, let both the Parties seek their respective instructions in respect of the same and revert on the next date of hearing.”

12. Today, both the parties are present in Court. On behalf of the Appellant, Mr. Vinit Vimal and Mr. Manoj Kumar Joshi are present in Court. On behalf of the Respondent, Mr. Amit Bhasin is present in Court. The Court has heard the *ld.* Counsels for both parties and has also heard the parties.

13. These appeals relate to the running of food outlets under the name of ‘*Mamagoto*’ and ‘*Dhaba*’. There are serious disputes between the parties. On behalf of the Appellants the concern is that the Agreements stand terminated but the Respondent continues to use both the names. Even the past dues have not been paid.

14. On behalf of the Respondents, the concern is that substantial investment has been made and brand fees has been made. The monthly payment is not to be made as the connected services have not been rendered by the Appellants.



15. Both parties have monetary claims against each other. A petition under Section 11(6) of the Arbitration & Conciliation Act, 1996 is stated to be pending before the Id. Single Judge of this Court, being **ARB.P. 1178/2025 and ARB.P. 1172/2025**.

16. But *prima facie*, this Court is of the view that once the agreements are terminated, the use of the names could create enormous confusion to the public who may think that the Respondent's outlets are still connected with the Appellant, when in fact they are not. Considering the contentions raised and in order to address the Respondent's concern that the names cannot be immediately discontinued, parties have agreed to resolve their issues, at the interim stage, on the following terms and conditions:

- (i) The disputes between the parties under both the Agreements dated 31st January 2022, shall be referred to a sole Arbitrator, namely, Justice Manmohan Singh (Retd.) of this Court. Before the Id. Arbitrator, the parties are free to raise all their claims including for damages, compensation and any other amounts which are due to them.
- (ii) The Respondent shall continue to use the marks/names '**Mamagoto**' and '**Dhaba**' till 31st December, 2025. After 31st December, 2025, the Respondent shall cease any use of the marks or names, *i.e.*, '**Mamagoto**' and '**Dhaba**'.
- (iii) The Appellant is willing to supply the raw material to the Respondent which the Respondent is willing to accept, accordingly, let the same continue as the Respondent was doing the same in the past. The raw material shall accordingly be purchased by the Respondent from the Appellant.



(iv) Accordingly, the names, '*Mamagoto*' and '*Dhaba*' are permitted to be used by the Respondent on the condition that the supplies shall be obtained from the Appellants. The supplies shall be subject to the payment on usual terms.

(v) If the Respondent wishes to be listed on online platforms such as Swiggy and Zomato, for the said purpose, the Respondent is free to approach Swiggy and Zomato for re-listing the food outlets on the said platforms. The Appellant shall not object to the said listing on the online platforms.

(vi) Insofar as the sales made by the Respondent are concerned, the Respondent shall ensure that the Appellants are free to re-install the '*Point of Sale*' (hereinafter, '*POS*') machine at the Respondent's outlets, so that proper claims for the monthly project management fee can be filed before the Id. Arbitrator. The POS machine shall be installed by the Appellant by 12th September, 2025. After the installation of the POS machine, record of the daily sale of the Respondent shall be provided by the Respondent to the Appellant.

17. In view of the above, the Arbitration petition no. **ARB.P. 1178/2025** and **ARB.P. 1172/2025** also shall be disposed of by the Ld. Single Judge.

18. Both parties shall appear before the Id. Arbitrator on 27th September, 2025. The fee that would be payable to the Id. Sole Arbitrator shall be in terms of the Fee Schedule applicable to arbitration cases in the Delhi International Arbitration Centre (DIAC).

19. Any observations made in these appeals, shall not bind the final arbitration.



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20. The appeals are disposed of in these terms. All pending applications, if any, are also disposed of.

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

SEPTEMBER 8, 2025/*pd/ck*