

GAHC010135162024



THE GAUHATI HIGH COURT
(HIGH COURT OF ASSAM, NAGALAND, MIZORAM AND ARUNACHAL PRADESH)

Case No. : I.A.(Civil)/2108/2024

OMEGA BIOTECH LTD.,
A COMPANY DULY REGISTERED UNDER THE PROVISIONS OF THE
COMPANIES ACT, 1956 AND HAVING ITS ADMINISTRATIVE OFFICE AT D-
10, KAVI NAGAR INDUSTRIAL AREA, SECTOR-17, GHAZIBAD- 201002,
UTTAR PRADESH, INDIA AND IS REPRESENTED BY ITS AUTHORISED
SIGNATORY AND MARKETING MANAGER, SHRI SHYAM MAINI.

VERSUS

THE MISSION DIRECTOR AND ANR
OFFICE OF THE MISSION DIRECTOR, SAIKIA COMMERCIAL COMPLEX,
SRINAGAR PATH, CHRISTIAN BASTI, G.S. ROAD, GUWAHATI-781005,
ASSAM

2:THE EXECUTIVE DIRECTOR

NATIONAL HEALTH MISSION
SAIKIA COMMERCIAL COMPLEX
SRINAGAR PATH
CHRISTIAN BASTI
G.S. ROAD
GUWAHATI-781005
ASSA

Advocate for the Petitioner : MR MAYANK SAHEWALLA

Advocate for the Respondent : SC, NHM

Linked Case : Arb.P./4/2024

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Advocate for : MR G N SAHEWALLA
Advocate for : SC
NHM appearing for THE MISSION DIRECTOR AND ANR

**BEFORE
HONOURABLE MR. JUSTICE SOUMITRA SAIKIA**

ORDER

Date : 23.07.2024

Heard Ms. G. Dugar, learned counsel for the petitioner. Also heard Ms. A. Bora, learned counsel for the respondents.

2. This Interlocutory Application has been filed seeking correction of the order dated 05.06.2024 passed in Arb.P./4/2024.

3. This Arbitration petition was filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996, whereby the petitioner sought for appointment of an Arbitrator in terms of Clause 27 of the Tender bearing Memo No. NHM/PROC/RC-Drugs/2268/2014-15/13559 dated 11.11.2014 and Tender bearing memo No. NHM/PROC/RC-Drugs/RSV/2502/2015-16/5390 dated 10.06.2015, for resolving the disputes arising out of the two contracts.

4. This Court upon hearing the learned counsels for the parties, by order dated 05.06.2024 allowed the Arbitration petition and appointed the Arbitrator, Hon'ble Mr. Justice H.K. Sharma, Judge (retd.) to act as a sole Arbitrator to decide the disputes arising out of the agreement executed by and between the parties. However, while disposing of the Arbitration petition, the order did not reflect both the tenders. In the order dated 05.06.2024, the Tender Notice No. NHM/PROC/RC-Drugs/2268/2014-15/13559 dated 11.11.2014 was reflected however the Tender Notice No. NHM/PROC/RC-Drugs/RSV/2502/2015-16/5390 dated 10.06.2015 was not reflected.

5. This Interlocutory Application has been filed by the applicant seeking incorporation of the Tender Notice No. NHM/PROC/RC-Drugs/RSV/2502/2015-

16/5390 dated 10.06.2015 since the Arb.P./4/2024 was filed with a prayer for appointment of an Arbitrator in terms of Section 27 in respect of the disputes arising between the parties in Tender Notice No. NHM/PROC/RC-Drugs/2268/2014-15/13559 dated 11.11.2014 and Tender Notice No. NHM/PROC/RC-Drugs/RSV/2502/2015-16/5390 dated 10.06.2015.

6. The learned counsel for the respondents does not dispute the submissions of the learned counsel for the applicant.

7. Upon hearing the learned counsels for the parties and upon perusal of the order dated 05.06.2024, this Court is of the view that since the prayer in the Arbitration petition was for appointment of an Arbitrator in respect of Tender Notice No. NHM/PROC/RC-Drugs/2268/2014-15/13559 dated 11.11.2014 and Tender Notice No. NHM/PROC/RC-Drugs/RSV/2502/2015-16/5390 dated 10.06.2015, whereas the order dated 05.06.2024 passed and disposing of Arb.P./4/2024 allowing the petition and appointing the Arbitrator was only in respect of Tender Notice No. NHM/PROC/RC-Drugs/2268/2014-15/13559 dated 11.11.2014, this Interlocutory Application stands allowed.

8. This order dated 05.06.2014 passed in Arb.P./4/2024 appointing Hon'ble Mr. Justice H.K. Sharma, Judge (retd.) to act as a sole Arbitrator to decide the disputes arising out of the agreements executed by and between the parties in respect of Tender Notice No. NHM/PROC/RC-Drugs/2268/2014-15/13559 dated 11.11.2014 will now be read together with this order.

9. The sole Arbitrator appointed is required to decide the disputes arising between the parties arising out of Tender Notice No. NHM/PROC/RC-Drugs/RSV/2502/2015-16/5390 dated 10.06.2015 along with the Tender Tender Notice No. NHM/PROC/RC-Drugs/2268/2014-15/13559 dated 11.11.2014.

10. Accordingly, this order shall now be read together along with the order dated 05.06.2024 passed in Arb.P./4/2024 and wherever the reference of Tender Notice No. NHM/PROC/RC-Drugs/2268/2014-15/13559 dated 11.11.2014 appears the same said shall be read as Tender Notice No. NHM/PROC/RC-Drugs/2268/2014-15/13559 dated 11.11.2014 and Tender Notice No. NHM/PROC/RC-Drugs/RSV/2502/2015-16/5390 dated 10.06.2015.

11. The Arbitrator is permitted to proceed to decide the disputes arising between the parties in respect of Tender Notice No. NHM/PROC/RC-Drugs/2268/2014-15/13559 dated 11.11.2014 and Tender Notice No. NHM/PROC/RC-Drugs/RSV/2502/2015-16/5390 dated 10.06.2015.

12. This Interlocutory Application accordingly stands allowed and disposed of.

JUDGE

Comparing Assistant