

GAHC010204922023



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

Case No. : Arb.P./31/2023

M/S CHIRAG ENFIELD AND 3 ORS.
A PARTNERSHIP FIRM HAVING ITS OFFICE AT GLOBE CERAMIC
COMPLEX, A.T. ROAD, MALIGAON, GUWAHATI-781005, DIST-KAMRUP (M),
ASSAM, REPRESENTED BY ITS MANAGING PARTNER- SHRI SANJAY
GUPTA

2: SANJAY GUPTA
S/O SRI NAND LAL GUPTA
R/O A.K. AZAD ROAD
SARABBHATTI
P.S.-PALTAN BAZAR
GUWAHATI-781016
DIST- KAMRUP (M)
ASSAM

3: SRIMATI SHILPI GUPTA
W/O SRI GAURAV ANAND GUPTA
R/O A.K. AZAD ROAD
SARABBHATTI
P.S.-PALTAN BAZAR
GUWAHATI-781016
DIST- KAMRUP (M)
ASSAM

4: ADITYA ARYA
S/O SHRI LOKESH KUMAR ARYA
R/O B-501
ASTHA PRESTIGE
N.S. ROAD
FATASHIL
GUWAHATI-781009
DIST- KAMRUP (M)
ASSAM.

(ALL BEING PRESENT PARTNERS OF M/S CHIRAG ENFIELD HAVING
OFFICE ADDRESS AS- GLOBE CERAMIC COMPLEX
A.T. ROAD
MALIGAON
GUWAHATI-781005

VERSUS

SMTI. MINA GUPTA AND ANR.
W/O SHRI ASHOK KUMAR GUPTA, R/O A.K. AZAD ROAD, SARABBHATTI,
P.S.-PALTANBAZAR, GUWAHATI-781016, DIST-KAMRUP (M), ASSAM

2:CHIRAG GUPTA
S/O SHRI ASHOK KUMAR GUPTA
ADD. NO. 1 - R/O A.K. AZAD ROAD
SARABBHATTI
P.S.-PALTANBAZAR
GUWAHATI-781016
DIST- KAMRUP (M)
ASSAM. ADD. NO. 2 - 4 ACES ENFIELD
HOUSE NO. 224
GROUND FLOOR
AAYJAY TOWER
ZOO ROAD
OPPOSITE DOORDARSHAN KENDRA GUWAHATI
DIST- KAMRUP (M)
ASSAM
PINCODE-78102

Advocate for the Petitioner : MR. P GOSWAMI

Advocate for the Respondent : MR P BARUAH

BEFORE
HONOURABLE MR. JUSTICE MICHAEL ZOTHANKHUMA

ORDER

27.06.2024

Heard Mr. R. Singha, learned counsel for the petitioners and Mr. B. Sarma, learned counsel appearing on behalf of Mr. P. Baruah, learned counsel for the respondents.

2. This is an application under Section 11(6) of the Arbitration and Conciliation Act, 1996, seeking appointment of an Arbitrator in respect of disputes stated to have arisen out of a Deed of Partnership dated 29.11.2018, which was registered on 03.12.2018.
3. The counsels for the parties submit that an agreement has been arrived at between the parties and in this respect, they have submitted a Memorandum of Understanding dated 19.06.2024.
4. The contents of the Memorandum of Understanding dated 19.06.2024 is reproduced hereinbelow as follows-

“ MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING is made and executed on this the day of June'2024, at Guwahati.

-BETWEEN

M/s. Chirag Enfield, A partnership firm having its office at Globe Ceramic Complex, A.T. Road, Maligaon, Guwahati- 781005, in the District of Kamrup(M), Assam, represented by its Managing partner: Shri Sanjay Gupta hereinafter called as the **FIRST PARTY**.

-AND-

(i) Smti. Mina Gupta, Wife of: Shri Ashok Kumar Gupta, ***(ii) Shri Chirag Gupta***, Son of: Shri Ashok Kumar Gupta by caste Hindu, both are resident of: A.K. Azad Road, Sarabbhatti, P.S. Paltanbazar, Guwahati- 781016, in the District of Kamrup(M), Assam hereinafter called as the **SECOND PARTY**.

AND WHEREAS, the First Party is a registered partnership firm presently constituted by three partners namely Shri Sanjay Gupta, Srimati Shilpi Gupta and Shri Aditya Arya by way of a Deed of Partnership/Admission of Partners vide Deed No. 18813 dated 27.09.2022.

AND WHEREAS, the M/S. CHIRAG ENFIELD earlier constituted by two partners namely Shri Sanjay Gupta and Srimati Mina Gupta by way of a Partnership Deed, which was

duly Notarized on 16.09.2015, but with effect from 15.04.2014 and registered by way of a Registered Deed of Partnership vide Deed No. 1210 dated 07.02.2018.

AND WHEREAS, the Partnership Deed of M/S. CHIRAG ENFIELD was again amended by way of admission of Partnership Deed executed 03.12.2018 vide Deed bearing No. 13110 for admission of Partners namely Srimati Shilpi Gupta and Shri Chirag Gupta.

AND WHEREAS, the SECOND PARTY retired from the Partnership business namely M/S. CHIRAG ENFIELD by way of a Deed of Retirement bearing Deed No. 18812 dated 27.09.2022 with some liability.

AND WHEREAS, the SECOND PARTY has thereafter started his own business namely, M/S 4ACES RETAIL PRIVATE LIMITED.

1) That there are some disputes which arose between the "First Party" and "Second Party" regarding a claim made by the "First party" for a sum of Rs. 40,36,904.65/- (Rupees Forty Lakhs Thirty-Six Thousand Nine Hundred Four and Sixty-Five Paisa) along with the assets of the partnership firm from the "Second Party", the value of which stands at Rs.7,60,563/- (Rupees Seven Lakhs SixtyThousand Five hundred and Sixty-Three only).

2) That for settlement of the said dispute, the "First Party" filed an Arbitration petition bearing No. **Arb. Petition No. 31/2023** before the Hon'ble Gauhati High Court.

3) That during pendency of the said Arbitration petition bearing No. **Arb. Petition 31/2023**, both the parties have agreed to come to a settlement out of the Court.

4) That the part of the "Second Party", has agreed to make a payment of Rs. 15,00,000/- (Rupees Fifteen Lakhs) to the "First Party" from his new business entity i.e. M/S 4ACES RETAIL PRIVATE LIMITED as full and final settlement of the claims and "First Party" agreed to withdraw the Arbitration petition bearing No. **Arb. Petition No.31/2023** pending before the Hon'ble Gauhati High Court.

5) That both the parties agree that this settlement is made without any admission of liability or fault on either party's part and solely for the purpose of maintaining familial relations and avoiding litigation.

6) That accordingly, the "Second Party", has paid the said agreed amount of Rs. 15,00,000/- (Rupees Fifteen lacs only) vide Cheque No. 000126 dated 19.06.2024 drawn on HDFC Bank for Rs.15,00,000/- issued in favour of the "First Party", and the "First party" accepted and acknowledge the receipt of the said amount as full and final settlement of all claims, demand, and disputes, arising out of the claim made by the

"First party" for a sum of Rs.40,36,904.65/- along with the assets of the partnership firm from the "Second Party", the value of which stands at Rs. 7,60,563/-.

*7) That the "First party" hereby considered the matter fully settled and release "Second Party" from any further obligation or claims regarding the dispute agitated in the Arbitration petition bearing No. **Arb. Petition No. 31/2023** and accordingly, the "First Party" undertakes to withdraw the Arbitration petition bearing No. **Arb. Petition No. 31/2023** pending before the Hon'ble Gauhati High Court which is listed on 19.06.2024 itself.*

8) That this agreement constitutes the entire understanding between the parties with respect to the settlement of all the disputes arose between the "First party" and "Second Party" along with the new business entity of the "Second Party" i.e. M/S 4ACES RETAILPRIVATE LIMITED and supersedes all prior negotiations, agreement and understandings, whether oral or written, between the parties.

9) That this agreement shall be made in duplicate, one original Copy of this instant Memorandum of Understanding will be retained by the First Party and the other original copy shall be retained by the "Second Party".

10) That it is further specifically agreed between the Parties that they shall abide by the contents of the instant 'Memorandum of Understanding' strictly and in the event of any breach of aforesaid terms and conditions of this 'Memorandum of Understanding' by any of the Party, the respective party shall be liable for appropriate legal action as per the law.

11) That this mutual 'Memorandum of Understanding' is made by the parties bonafide to avoid any future complicity.

IN WITNESSES WHEREOF the Parties hereto put their hands on this Memorandum of Understanding on the 19th day of June' 2024 first written above."

5. Mr. B. Sarma, learned counsel for the respondents has also submitted HDFC Bank cheque No.000126 dated 19.06.2024, in favour of the petitioners for an amount of Rs.15 lakhs, in pursuance to the Memorandum of Understanding dated 19.06.2024. The said cheque is handed over to the petitioner No.2, namely Sanjay Gupta in the Court today.

6. The present application is accordingly disposed of in terms of the

Memorandum of Understanding dated 19.06.2024, which is made a part of the record and marked as Annexure-X.

JUDGE

Comparing Assistant