IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE P.BHAVADASAN

WEDNESDAY, THE 4TH DAY OF FEBRUARY 2015/15TH MAGHA, 1936

AR.No. 55 of 2014 ()

APPLICANT:

M/S.VENKATESWARA ELECTRICALS,
CHENNAKATTU, KRA/36, THATHAMPALLY P.O.,
ALLEPPEY-688 013, REPREESENTED BY ITS PROPRIETOR,
RAJEEV BHASKARA WARRIER.

BY ADVS.SRI.V.G.ARUN
SRI.T.R.HARIKUMAR
SRI.ARJUN RAGHAVAN

RESPONDENT:

M/S.CARNOUSTIE RESORTS PRIVATE LIMITED.,
REPRESENTED BY ITS MANAGING DIRECTOR, G-504, VIRAI,
KANCHANPUSHP COMPLEX, GHODBUNDER ROAD,
OPP. SURAJ WATER PARK, THANE WEST-400 601,
MAHARASHTRA.

THIS ARBITRATION REQUEST HAVING BEEN FINALLY HEARD ON 04-02-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

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AR.NO.55/2014

APPENDIX

PETITIONER'S ANNEXURES:

ANNEX 1	**COPY OF THE AGREEMENT DATED 15/06/2011, ENTERED INTO BETWEEN THE APPLICANT AND THE RESPONDENT.**
ANNEX II	**COPY OF THE WORK COMPLETION CERTIFICATE ISSUED BY THE RESPONDENT TO THE APPLICANT**
ANNEX III	**COPY OF THE ACCOUNT STATEMENT.**
ANNEX IV	**COPY OF THE LETTER ISSUED BY THE RESPONDENT TO THE APPLICANT DATED 21/09/2013.**
ANNEX V	**COPY OF THE LETTER DATED 16/10/2013 SENT BY THE APPLICANT TO THE PROJECT HEAD OF THE RESPONDENT.**
ANNEX VI	**COPY OF THE EMAIL COMMUNICATION DATED 22/03/2014 RECEIVED BY THE APPLICANT FROM THE CHIEF ENGINEER OF THE RESPONDENT.**
ANNEX VII	**COPY OF THE EMAIL COMMUNICATION DATED 24/03/2014 SENT BY THE APPLICANT TO THE RESPONDENT.**
ANNEX VIII	**COPY OF THE LAWYER NOTICE DATED 04/06/2014.**

RESPONDENT'S ANNEXURES: **NIL**

/TRUE COPY/

P.S.TO.JUDGE

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P. BHAVADASAN, J.

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A.R. No. 55 of 2014

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Dated this the 4th day of February, 2015.

ORDER

This is an arbitration request made under Section 11 of the Arbitration and Conciliation Act seeking appointment of an Arbitrator.

2. The applicant is a proprietary concern engaged in undertaking electrical contract works. For the construction of a resort, an agreement was entered into between the applicant and the respondent for carrying out electrical works in the resort. Copy of the agreement is produced as Annexure I. The contract was for Rs.1,95,00,859/-.

3. As per the provisions in Annexure I, the electrical work should be completed on or before 31.10.2011. The agreement contained a stipulation regarding the payments to be made also. Clause 14 of

Annexure I provides that in case of any dispute, it shall be placed before a sole Arbitrator acceptable to both parties.

4. The applicant claims that the it had completed the work in accordance with the terms of the agreement and completion certificate is produced as Annexure II. As per the account statement prepared by the applicant, a total sum of Rs.2,37,02,481/- was due from the respondent. An amount of Rs.2,19,65,573/- was received from the respondent and a balance sum of Rs.17,36,908/- was due from the respondent. It is also stated that an amount of Rs.23,97,184/- was due from the respondent towards retention amount and the total amount would come to Rs.41,34,092/-. Out of which an amount of Rs.14,00,000/- was received and the balance outstanding is Rs.27,34,092/-. The statement of account is produced as Annexure II. It is pointed out that the applicant has received a letter from the respondent calling upon the applicant to furnish the details before 30.9.2013 for finalizing the account. Even though

the applicant furnished all the necessary details, no information was received. That caused Annexure V letter to be sent by the applicant to the respondent on 16.10.2013. It is stated that inspite of the receipt of the reminder, the respondent did not care to clear the balance due as per the bills submitted by the applicant. It is pointed out that to the utter surprise of the applicant, they received an email accusing that since the applicant had failed to complete the panel automation work, the respondent was forced to complete the said work by engaging other agencies and the cost of the same was deducted from the applicant's account. The applicant replied by way of Annexure VII. Nothing transpired thereafter. The applicant issued Annexure VIII notice intimating appointment of an Arbitrator as per the terms of the agreement. Since there is no response from the respondent, this Court has been approached.

5. Notice was issued to the respondent. There is no representation on behalf of the respondent.

6. The allegations in the petition remain uncontroverted. There is an arbitration clause. There is nothing to show that the claim is barred by limitation. There is also sufficient evidence to show that notice has been issued regarding the appointment of an Arbitrator. All the legal requirements are satisfied.

In the result, this Arbitration Request is allowed and Shri. A. Haridasan, District Judge (Retired), Plot 237, Hill Garden Housing Colony, Kuttanellur, Trichur - 14 is appointed as Arbitrator. The Arbitrator may issue notice to the parties concerned and may fix his remuneration which the parties are bound to pay.

Communicate this order to the Arbitrator.

P. BHAVADASAN,
JUDGE

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