

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 11..09..2015

C O R A M

The Hon'ble Mr. **SANJAY KISHAN KAUL**, Chief Justice

Original Petition No.405 of 2015

1. Kartiken Logistics Ltd.,
represented by its Director
B-1/3, Emca House, 289, SBS Marg, Fort,
Mumbai, 400001.

2. Leben Multitrade Pvt., Ltd.,
represented by its Director,
B- 73, Ashmant CHS Ltd.,
Srishti Housing Complex,
Sector-3, Mira Road East,
Thane, Maharashtra 401 104.

3. Adveta Services and Trading Pvt., Ltd.,
represented by its Director
B-101, Rajkalam Studio Apartment,
Dr.S.S.Road, Parel, Mumbai 400 012,
and now having its address at
B-74, Ashmant Building, Srishti Complex,
Mira Road, Sector -3, Thane 401104. ... Petitioners

versus

Kothari Industrial Corporation Limited
'Kothari Buildings', 114/117, Mahatma Gandhi Road,
Nungambakkam, Chennai 600 034.
represented by its Managing Director
Mr.Pradip Kothari. ... Respondent

Prayer : *Petition filed under Section 11 of
the Arbitration and Conciliation Act, 1996,
for appointment of an Arbitrator as the nominee
of the respondent owing to the failure of the
respondent to nominate its arbitrator.*

For Petitioner : Mr.Thriyanbak J.Kannan

For Respondents : Mr.S.Balsubramanian
for Mr.J.Mahendran

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O R D E R

The present petition under Section 11 (6) of the Arbitration and Conciliation Act, 1996, relates to the disputes which have arisen in respect of the Share Subscription and Shareholders Agreement dated 21.10.2009 and an Operations and Management Agreement dated 21.10.2009.

2. Learned counsel for the respondent fairly states that in so far as settlement of disputes through modes of arbitration is concerned, there is no issue qua the jurisdiction of this Court. He further submits that there are three petitioners and one respondent in the present petition who are all parties to the Share Subscription and Shareholders Agreement, but the Operations and Management agreement is only between the first petitioner and the respondent. He thus submits that there cannot be single reference, but two separate reference have to be made to settle the disputes in respect of the persons/entities who are parties to the two separate agreements.

3. The aforesaid course of action is acceptable to the learned counsel for the petitioner.

4. In view of the aforesaid, by consent of parties, I appoint, Mr.Mohan, Advocate, as the sole Arbitrator to enter upon disputes and adjudicate the disputes between the petitioner and the respondent in respect of the Share Subscription and the Shareholders Agreement, as the first reference and between the first petitioner and the respondent in respect of disputes arising out of Operations and Management Agreement as the second separate reference. The arbitration proceedings will be conducted under the aegis of Madras High Court Arbitration Centre and the parties will be governed by the Rules of the Madras High Court Arbitration Centre (MHCAC) (Arbitration Proceedings) & (Administrative Cost and Arbitrators' Fees) Rules, 2014.

5. It is clarified though Operations and Management Agreement provides for Arbitral Tribunal of three Members, the parties have agreed for single Member Arbitration.

6. The original petition is accordingly allowed, leaving the parties to bear their own costs.

Sd/ (S.K.K., CJ.)

11.09.2015

//Certified to be a true copy//
Dated this the day of

2015.

R.s/04.12.2015

COURT OFFICER

From 25.09.2008 the Registry is issuing certified copies of the Order/Judgment Decree in this format.