

In the High Court of Judicature at Madras

Dated : 30.01.2015

Coram :

The Hon'ble Mr.Sanjay Kishan Kaul, Chief Justice

O.P.No.457 of 2012

M/s.Penna Beverages
Rep. by its Managing Partner,
Mr.M.Ravinder.

.. Petitioner

-VS-

M/s.Goodlife Industries Limited
Rep. by its Director, Mrs.Lata Suresh.

.. Respondent

Petition filed under Section 11 (5) of the Arbitration and Conciliation Act, 1996, to appoint an Arbitrator in terms of Article 17.0 of the Agreement dated 12.04.2011 to resolve the disputes between the parties in accordance with the Arbitration and Conciliation Act, 1996.

For Petitioner : Mr.B.Rabu Manohar

For Respondents : Mr.A.Prabhakarareddy
for A.P.R. Asso.

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ORDER

The dispute inter se the parties arises out of the Manufacturing and Supply Agreement dated 12.04.2011, which contains an arbitration clause and the petitioner claims amounts due from the respondent.

2.No reply has been filed and the only submission made before

this Court by the learned counsel for the respondent is that in the agreement, there is improper description of the petitioner. This plea is based on the fact that though the petitioner is a partnership firm and the agreement is signed by the partner of the partnership firm, in the descriptive portion, it is stated "company registered under the provisions of the Indian Companies Act, 1956".

3. In my view, the aforesaid does not impact the arbitration clause nor is there lack of identity. The description of the petitioner is correct. It is a registered partnership firm. The agreement is signed by the partner of the partnership firm and it is correctly defined that the Managing Partner is signing the agreement, on its part. There is apparently a mis-description only to the extent of saying that it is a registered company, which cannot be fatal. The relevant portion reads as under, with the mis-description being highlighted:

" PENNA BEVERAGES a Company registered under the provisions of the Indian Companies Act, 1956 and having its registered office at # N.H-7 Road, Damaracheruvu Village, Ramayampet (Mandal), Medak District, Andhra Pradesh, represented by its Managing Partner Mr.K.Ravindar Son of Mr.M.Krishnaiah, party of the second part (hereinafter referred to as PB) "

4. I am, thus, of the view that the aforesaid objection is not

sustainable to denying the petitioner the resolution of disputes through arbitration.

5. In view of the aforesaid, it is agreed that Mr.M.Nandan, a retired Judicial Officer, be appointed as the Sole Arbitrator to enter upon the reference. I, thus, appoint **Mr.M.Nandan, a Retired Judicial Officer**, residing at No.71, MIG, IV Main Road, T.N.H.B., Nolambur, Phase-II, Mogappair West Garden, Chennai 600 037, as the Sole Arbitrator to enter upon the reference and after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the order. The learned Arbitrator is at liberty to fix the remuneration and other incidental expenses, which shall be borne by the parties equally.

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

(S.K.K., CJ.)
30.01.2015

sra

The Hon'ble Chief Justice

(sra)

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