

In the High Court of Judicature at Madras

Dated : 08.01.2016

Coram :

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

O.P.No.828 of 2015

Trimex Industries Private Limited
Trimex Towers, 1, Subbaraya Avenue,
C.P.Ramaswamy Road, Alwarpet, Chennai.

.. Petitioner

-VS-

Tirupati Fuels Pvt. Ltd.,
2nd Floor, 12, Ho-Chi-Minh Sarani,
Kolkata.

.. Respondent

Petition filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996, to appoint a sole arbitrator under Clause 12.2 of the Loan Agreement, to adjudicate all disputes between the Petitioner and the Respondent with respect to the Loan Agreement dt.20.06.2013.

For Petitioner : Ms.R.Anu
for Mr.Srinath Sridevan

For Respondent : Notice served.

* * * * *

ORDER

The petitioner, a limited company, claims to be engaged in the business of sourcing, procurement and trading of minerals and commodities in South East Asia, the Middle East Asia and in India. The respondent is stated to be a producer of METCOKE having a plant located in Vishakhapatnam. The two parties entered into a Memorandum of Understanding (MOU) dated 13.06.2013 in respect of operation of the plant of the respondent with a separate Job Contract Agreement dated 20.06.2013 pursuant to the MOU. The petitioner claims to have advanced a sum of Rs.2 crores to the respondent under a Loan Agreement also of 20.06.2013.

2.As per the Job Contract Agreement, the petitioner undertook to supply coking coal and other raw materials to the respondent for production of LAM Coke. In terms of the agreement, the petitioner is stated to have permitted the respondent to collect the receivables from the sale of LAM Coke and the respondent, in turn, to pay over 60% share in the profits to the petitioner. The agreement was further extended in September, 2013 and in June 2014, after negotiations, the contract was mutually concluded on 30.06.2014. The petitioner sent a letter dated 14.07.2014 computing the sum

payable for the period from 20.06.2013 to 30.06.2014 by the respondent towards its share in the profits and also the loan amount including the C-Forms. It is the case of the petitioner that despite demands, payments have not been made and even C-Forms not furnished. The last communication in this behalf is stated to be of 22.07.2014.

3. In view of lack of response, the petitioner issued an arbitration notice dated 10.12.2014, which was not responded to.

4. The Job Contract Agreement contains the arbitration clause as under:

"10 ARBITRATION

Any dispute arising out of or in relation to this Agreement which cannot be resolved by mutual discussion, shall be subject to arbitration by a sole arbitrator to be jointly appointed by all the Parties in accordance with the Arbitration and Conciliation Act, 1996. The venue of Arbitration shall be at Chennai and the arbitration shall be held in English language."

5. Notice is issued to the respondent, but despite service, none has put in appearance. Thus, it is a case of no return and the averments in the petition are deemed to be correct.

6.The factual situation shows that the parties had entered into an agreement, which has given rise to disputes. The mode of settlement of disputes through arbitration is agreed upon to be held at Chennai, the jurisdiction of this Court is also not in dispute.

7.In view of aforesaid, I appoint **Mrs.Justice Chitra Venkataraman, a retired Judge of this Court**, as the Sole Arbitrator to enter upon the reference and adjudicate the disputes inter se the parties. As requested, the arbitration proceedings will be conducted under the aegis of the Madras High Court Arbitration Centre and the parties will be governed by the Rules of the Centre.

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

(S.K.K., CJ.)
08.01.2016

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Note: Mark a copy to

- (i) The Addl. Registrar-Vigilance
Madras High Court Arbitration Centre,
Madras High Court Campus, Chennai.
- (ii) The Arbitrator, as referred above.

The Hon'ble Chief Justice

(sra)

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