

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 01.08.2017

CORAM

THE HONOURABLE DR.JUSTICE ANITA SUMANTH

O.P. No.393 of 2017

Mycon Construction Ltd.,
Formerly known as
M/s.The Mysore Construction Company (MCC),
rep. by its Executive Officer
Mr.Aniruth Malpani .. Petitioner

-vs-

Bharat Heavy Electricals Limited,
Power Sector – Southern Region,
EVR Periyar Building,
690, Anna Salai, Nandanam,
Chennai-600 035. ... Respondent

Prayer: Petition filed under Section 11(6) of the Arbitration & Conciliation Act, 1996 to appoint the Arbitral Tribunal consisting of Sole Arbitrator to adjudicate upon the disputes between the petitioner and respondent arising out of the fax Letter of Intent dated 26th October 2006, Letter of Intent dated 1st December 2006 and Contract dated 17th December 2007.

For Petitioner : Mr.Anirudh Krishnan

For Respondent : Mr.Krishna Srinivasan

ORDER

This petition is filed seeking the appointment of an Arbitral Tribunal in terms of Section 11(6) of Arbitration & Conciliation Act,

1996.

2.Clause 44 of Contract Agreement dated 17.12.2007 between the parties provides that any dispute arising in respect of the agreements shall be referred to Arbitration, in accordance with the provisions of the Indian Arbitration and Conciliation Act, 1996, reading thus:-

"44.0.Settlement of disputes and arbitration:- Except where otherwise provided in the contract all quotations and disputes relating to the meaning of specifications, design, drawings and instructions herein before mentioned and as to the quality of workmanship or materials used in the work as to any other question claim, right, matter or thing whatsoever in any way arising out of or relating to the contract, designs, drawings, specifications, estimates, instructions, orders or these conditions or otherwise concerning the work or the execution or failure to execute the same whether arising during the progress of the work or after the completion or abandonment thereof shall be referred to and decided by the engineer whose decision shall be final to the parties hereto subject however, to the Arbitration referred hereunder. Any disputes of differences including those considered as such by only one of the parties arising out of or in connection with the contract shall be to the extent possible settled amicably between the parties. If amicable settlement cannot be reached then all such disputed issues shall be referred to the sole arbitration of the person appointed by the General Manager of the

Employer.”

3.A suggestion was made by the learned counsel for the respondent that Mr.S.Sivaraman, Engineer-in-Chief, Tamilnadu PWD, (Retired) may be appointed as the Sole Arbitrator. A declaration has been filed by him in terms of the sixth schedule and Section 12(1)(b) of the Act.

4.Mr.Anirudh Krishnan, learned counsel for the petitioner has no objection for the appointment of Mr.S.Sivaraman.

5.Accordingly and by consent of parties, I appoint Mr.S.Sivaraman, Engineer-in-Chief, Tamilnadu PWD, (Retired), residing at 5/8, Second Street, Marackayar Nagar, Neelankarai, Chennai 600 115, (Mobile 9790039921) as the Sole Arbitrator to enter upon reference and adjudicate the disputes inter se the parties. He may, 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 Arbitrator is at liberty to fix his remuneration and other incidental expenses. The proceedings may be conducted at a neutral venue, acceptable to both parties.

Dr.ANITA SUMANTH,J.

vga

6.The Original Petition is, accordingly, allowed, leaving the parties to bear their own costs.

vga

01.08.2017

O.P. No.393 of 2017



WEB COPY