

In the High Court of Judicature at Madras

Dated : 03.03.2017

Coram :

The Hon'ble Mr.Huluvadi G.Ramesh, Acting Chief Justice

O.P.No.673 of 2016

M/s.TCI (India) Pvt Ltd.,
rep. by its Executive Director
Mr.Kazutake Kobayashi
B-28, Phase-II, 5th Cross Street,
MEPZ-SEZ, Tambaram,
Chennai – 600 045.

.. Petitioner

-VS-

M/s.Eastern Chemical Trading Corporation,
rep. by its Proprietor Mr.Parijit Chosh,
15/8, Haridevpur Road,
Kolkata,
West Bengal – 700 082.

.. Respondent

Petition filed under Section 11 (6) (c) of the Arbitration and Conciliation Act, 1996, to appoint a Sole Arbitrator to adjudicate upon the differences and disputes between the parties hereto.

For Petitioner : Mr.P.V.Balasubramaniam

For Respondent : Notice Served
No Appearance

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ORDER

This petition has been filed seeking to appoint an Arbitrator to adjudicate upon the disputes arisen between the petitioner and the respondent.

2. The parties have entered into a Distributorship Agreement dated 01.09.2014 containing Clause 30.1 as arbitration clause, which reads as under:-

“30.1 Any dispute or difference of opinion, which may arise on account of or in relation to this agreement, will be resolved by mutual discussion and conciliation, failing which the same will be settled by arbitration in accordance with the Arbitration and Conciliation Act, 1996 or any subsequent amendment and/or enactment, the venue of arbitration shall be Chennai and Courts in Chennai alone shall have jurisdiction.”

3. On 04.07.2016, the petitioner issued a notice to the respondent invoking arbitration clause. In that notice the petitioner intimated to the respondent that in the event that no response was received from the respondent conveying their consent to the appointment of Mr.V.Inbavijayan as the Sole Arbitrator. Though the respondent received the said notice, there was no response from them. Hence, the present petition seeking appointment of a Sole Arbitrator to resolve the disputes.

4. The private notice taken by the petitioner was served on the respondent and the petitioner has filed affidavit of service along with India Post Tracking Report. On a perusal of the Tracking Report, I find that item was booked on 8.2.2017 and was delivered on 09.2.2017. Despite service, the respondent has not entered appearance. The name of the respondent has also been printed in the cause list.

5. Today when the matter is taken up for hearing, none appeared for the respondent. Since the agreement contains an arbitration clause and disputes having arisen between the parties and according to the petitioner, the jurisdiction is of Chennai Courts, I am of the view that the matter is liable to be referred to arbitration.

6. The learned counsel appearing for the petitioner submitted that any one of the Arbitrator in the panel of a retired District Judge maintained by this Court may be appointed as an Arbitrator in this matter.

7. I, thus, appoint Mr.G.Palaniappan, a retired District Judge (Mobile No.9443335815), No.2B, Owner's Court, Montieth Street, Montieth Road, Egmore, Chennai-8, a retired District Judge as the Sole Arbitrator, to enter upon the reference and adjudicate the disputes *inter se* the parties. 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. In case of non-availability of the Madras High Court Arbitration Centre, the case may be held at Nani Palkhivala Arbitration Centre at No.22, Karpagambal Nagar, Mylapore, Chennai-600 004. The parties to appear before the Centre on 24.03.2017 at 10.30 A.M.

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

(H.G.R., ACJ.)
03.03.2017

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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 Acting Chief Justice

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