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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
IN ITS COMMERCIAL DIVISION**

COMMERCIAL ARBITRATION PETITION NO.1459 OF 2019

MG Automotives (Bus & Coach)

Pvt.Ltd. & Anr.

..Petitioners

Vs.

MAN Truck & Bus India Pvt. Ltd. & Anr.

..Respondents

Mr.Chirag Mody with Mr.Virendra Pereira, Mr.Jimish Shah and Mr.G.S. Sethi i/b. M/s.Divya Shah Associates for Petitioners.

Ms.Saumya Brajmohan with Ms.Shruti Maniar i/b. M/s.Solomon & Co. for Respondent No.1.

Mr.Aniket Kharote with Mr.Harshit Panchal i/b. Globe Law & Co. for Respondent No.2.

CORAM : G.S. KULKARNI, J.

DATE : 9th MARCH, 2020

P.C.:

Heard Mr.Mody, learned Counsel for the petitioners, Ms.Brajmohan, learned Counsel for respondent No.1 and Mr.Kharote, learned Counsel for respondent No.2.

2. Learned Counsel for the petitioners and learned Counsel for respondent No.1 have no objection for deleting respondent No.2 from the arbitral proceedings. Statement as made is accepted.

3. Learned Counsel for the petitioner and respondent No.1 on instructions state that their clients are agreeable for the disputes and differences between the parties to be referred for arbitration by appointing an arbitral tribunal. The parties agree that the disputes be referred to

the sole arbitration of Mr. Justice V.M. Kanade (Retd.).

4. Accordingly this petition under Section 9 of the Arbitration and Conciliation Act, 1996 (for short, “the Act”) would also be required to be disposed of, in view of the consensus as arrived between the parties. Hence the following order:-

ORDER

- (i) Mr. Justice V.M. Kanade (Retd.) is appointed as a prospective sole Arbitrator to arbitrate the disputes and differences between the parties arising under the Memorandum of Cooperation Agreement dated 13 December 2016 and the Memorandum of Understanding dated 8 December 2017 ;
- (ii) The learned prospective arbitrator, before entering the arbitration reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of this petition with a copy to be issued to both the parties;
- (iii) This petition under Section 9 of the Act along with pleadings shall be treated as an application under Section 17 of the Act to be adjudicated by the sole arbitrator;
- (iv) The arbitral tribunal shall adjudicate the Section 17 application as expeditiously as possible and preferably within a period of four weeks from the date of the application being filed;
- (v) All contentions of the parties including on merits of the disputes are expressly kept open;
- (vi) At the first instance, the parties shall appear before the prospective arbitrator within a period of ten days from today on a date which may be mutually fixed by the prospective sole arbitrator;

- (vii) The parties agree that the venue of the arbitral proceedings shall be at Mumbai.
- (viii) The learned arbitrator shall make an endeavour to adjudicate the disputes within the period as prescribed under Section 29A of the Act.
- (ix) The petition is disposed of in the above terms. No costs.
- (x) Office to forward a copy of this order to the learned Arbitrator on the following address:

address: Examiner Press Building, 2nd Floor, Room No.19,
Chamber No.1, Dalal Street, Opp. Dwarka Hotel,
Mumbai-400 001

E-mail: vidyasagar_kanade@yahoo.co.in

Contact: 9820308228.

[G.S. KULKARNI, J.]

Prajakta
S.
Vartak

Digitally
signed by
Prajakta S.
Vartak
Date:
2020.03.12
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