

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**ARBR No. 17 of 2020**

ABIS Exports India Pvt. Ltd. A Company Incorporated Under The Provisions Of Companies Act, 1956, Represented Through Its Vice President Mr. Mohammed Asif Qureshi S/o Mohd. Shareed, Aged About 52 Years, Having Its Registered Office At Village Indamara, Post - Pandri, District Rajnandgaon, 491441, Chhattisgarh

---- Applicant**Versus**

- Jignesh Umakant Bhai Contractor Proprietor Of M/s Vaishnavi Aquatech Having Its Registered Office At True Blue House, Plot No. 38, Bhatpore Gidc, Hazira, Surat-394510 Gujarat

---- Respondent

For Applicant	:	Mr. Hasan Ali, Advocate
For Respondent	:	None

Hon'ble Shri Justice P. Sam Koshy**Order On Board****01.10.2021**

1. The matter, in the previous couple of hearings had been adjourned only awaiting the appearance on behalf of respondent. However, in spite of proper service, there is no representation for the respondent either in person or through a lawyer.
2. Given the fact, this Court is left with no other option but to proceed ex parte against the respondent and decide the application under Section 11 (6) of the Arbitration and Conciliation Act, 1996 (in short "the Act of 1996").
3. The present application has been filed by the applicant seeking for appointment of an Arbitrator for resolving the dispute that the

applicant has raised against the respondent.

4. The applicant company which is incorporated and registered under the Companies Act is engaged in the business of manufacturing, selling and distribution of Shrimp Feed (goods). The respondent also is involved in the business of buying, selling & trading of Acqua Feed in the name of "M/s Vaishnavi Aquatech". The two i.e. applicant and respondent knowing each other fully well about their commercial activities entered into a dealership agreement on 08.04.2019. The applicant was required to supply goods to the respondent which in terms of the agreement the applicant had been supplying since 01.04.2019. In due course of time, the applicant supplied goods to the respondent to the tune of Rs.1,45,44,056/- between 01.04.2019 to 09.05.2019. Against the supply so made, the respondent made payment to the applicant only Rs.70,98,715/- and the balance of Rs.74,45,341/- stood outstanding against the respondent which in spite of best efforts being made by frequent visits and correspondence till date has not been paid by the respondent.
5. In terms of the dealership agreement between the parties, there is a specific clause i.e. Clause-Q which envisages that in the event of any dispute between the parties, the same would be resolved by resorting to the arbitration clause. The petitioner has been time and again raising demand notices invoking for the arbitration clause to which also there was no response by the respondent which has led to the filing of the present application seeking for indulgence of this Court for appointment of an Arbitrator to resolve the dispute.
6. After issuance of notice to the respondent the matter for the past couple of hearings had been adjourned awaiting appearance on

behalf of the respondent but in spite of proper service, the respondent has shown no interest to participate in the present proceeding.

7. Given the fact that there is no response on the part of the respondent either to the notice invoking the arbitration clause by the applicant or to the notice issued by this Court in the present application under Section 11 (6) of the Act of 1996, this Court is of the opinion that the issue is one which now has to be referred to a sole Arbitrator to be appointed by this Court.
8. Learned counsel appearing for the applicant suggests the name of Hon'ble Justice Shri V. K. Shrivastava, former judge of this High Court to appoint as an Arbitrator.
9. In view of the proposal made by the applicant, in exercise of the powers conferred under Section 11(6) of the Act, 1996 under the authorities given by Hon'ble the Acting Chief Justice, I hereby appoint Hon'ble Justice Shri V. K. Shrivastava, retired Judge from the High Court of Chhattisgarh to act as an Arbitrator and arbitrate the dispute between the parties in accordance with the provisions of the Act of 1996.
10. The Registry is directed to communicate this order to Hon'ble Justice Shri V. K. Shrivastava to enter upon reference after complying with the provisions contained under Section 12(2) of the Act, 1996 and to adjudicate upon the dispute as expeditiously as possible in accordance with the Act of 1996.
11. The remuneration of the Arbitrator shall be settled with the mutual consent of the parties.

- 12.** The ARBR accordingly stands allowed to the extent indicated hereinabove. No order as to costs.

**Sd/-
(P. Sam Koshy)
Judge**

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