

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

ARBITRATION PETITION NO.23 OF 2021

SKF India Ltd.

.. Petitioner

Vs.

Bearings & Bearings

.. Respondent

Mrs. Sangita Kalsekar, i/by Ms. Pallavi Dabholkar, for the Petitioner.

Mr. Anup Khaitan, i/by Anup Khaitan & Co., for Respondent No.1.

CORAM : A. K. MENON, J.

DATED : 5TH APRIL, 2021.

P.C. :

1. This is a petition filed under Section 11(5) of the Arbitration and Conciliation Act, 1996, seeking appointment of a Sole Arbitrator. The petitioner and respondent are parties to an Automotive Distributor Agreement dated 14th December 2017. The said agreement contains a provision in clause 26 for governing law, jurisdiction and dispute resolution. Clause 26.2 contemplates reference of disputes to a sole arbitrator appointed by the petitioner; however in view of the amended provisions of the Arbitration and Conciliation Act, the clause to the extent it empowers the petitioner to appoint an arbitrator will not survive.

2. Both the learned counsel today agree that disputes have arisen and that disputes may be referred to a Sole Arbitrator.

3. In view thereof, considering the fact that the agreement between the

parties provides for arbitration to be conducted in Pune, it would be in fitness of the things that the arbitral tribunal to be constituted also holds meetings in Pune. Accordingly, I pass the following order :-

- (i) Shri S.M. Deshmukh, Former District and Sessions Judge, Block No.13/14, Building No."O" Kumar Park-off, Kondhwa Road, Bibwewadi, Pune – 411 037, is appointed as Sole Arbitrator to adjudicate upon claims and counter claims, if any,
- (ii) The learned Arbitrator is requested to file his disclosure statement under Section 11(8) and Section 12(1) within a period of three weeks from today with the Registrar (Judicial-I) and provide copies to the parties.
- (iii) Parties to appear before the Sole Arbitrator on a date to be fixed by him as per his convenience.
- (iv) Fees payable to the Sole Arbitrator will be in accordance with the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.
- (v) Arbitration Petition is disposed in the above terms.
- (vi) No costs.

(A. K. MENON, J.)