

Gauri A.
Gaekwad

Digitally
signed by
Gauri A.
Gaekwad
Date:
2021.02.26
18:26:35
+0530

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO.239 OF 2018**

HRIM Finance and Securities Pvt. Ltd.

....Petitioner

V/s.

Gasesonline India Private Limited

....Respondent

Mr. Karl Shroff a/w. Mr. Zain Mookhi, Ms. Sheetal Prakash and Ms. Palak Patel i/b. Mansukhlal Hiralal and Company for petitioner.

Mr. Cherag Balsara a/w. Mr. Asadali Mazgonwala i/b. Kartikeya and Associates for respondent.

CORAM : K.R.SHRIRAM, J.

DATED : 26th FEBRUARY 2021

P.C. :

1 Parties have entered into consent minutes of order dated 26th February 2021. The consent minutes of order signed by the director of petitioner, authorised signatory of respondent and their respective advocates is taken on record and marked "X" for identification.

2 The counsel for respondent states that the signatory Mr. Ghanshyam Sharma has been authorised by the Director Mr. Sharad Lohia to sign the consent minutes of order and within one week from today, they shall file a resolution ratifying the authority by the company authorising Mr. Ghanshyam Sharma to sign this consent minutes of order and copy thereof shall also be provided to petitioner's advocates. Statement accepted as undertaking to this Court by Mr. Ghanshyam Sharma on behalf of respondent.

3 For ease of reference, the consent minutes of order is scanned and reproduced hereinbelow :

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION PETITION NO. 239 OF 2013

HRIM Finance and Securities Pvt. Ltd.

Petitioner:

Versus

Gasoline (India) Pvt. Ltd.

Respondent.

CONSENT MINUTES OF ORDER

1. The Petitioner is a Broker licensed to carry out trades and transactions on the floor of the MSE. The Respondent was a client/constituent of the Petitioner. Disputes arose by and between the Petitioner and the Respondent on account of which, the Respondent invoked Arbitration, which resulted in an Award dated 29th August, 2012 being passed in favour of the Respondent, awarding the Respondent an amount of Rs.17,83,532/-. As the claim of the Respondent exceeded an amount of Rs.25,00,000/-, the arbitral proceedings were required to be conducted by the Arbitral Tribunal consisting of three Arbitrators. The Appellate Bench appointed a panel of three Arbitrators. The aforesaid panel of three Arbitrators passed a unanimous Award dated 19th September, 2013 awarding the Respondent a sum of Rs.23,05,484/- and rejecting the Counter Claim of the Petitioner amounting to Rs.4,40,298.95.
2. The said Award dated 19th September, 2013 was challenged in Appellate proceedings and was set aside and remanded back to the Arbitral Tribunal to adjudicate the matter with a fresh direction to provide full opportunities to both parties as contemplated under Section 18 of the Arbitration & Conciliation Act, 1996. The Appellate Bench passed the Order of remand on 14th March, 2014.
3. The Bombay High Court in Arbitration Petition No. 79 of 2015 passed an Order dated 14th July, 2015 setting aside the Awards dated 19th September, 2013 and



1



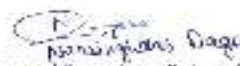
14th March, 2014 by consent of the parties and constituted a fresh Arbitral Tribunal vide its Order dated 14th July, 2015.

4. The newly constituted Bench adjudicated upon the matter and awarded a sum of Rs.23,14,101/- in favour of the Respondent along with simple interest @ 8% p.a. from the date of the Original Application i.e. 14th March, 2012. The Award was passed on 25th November, 2015. The same was corrected vide Order under Section 33 of the Arbitration & Conciliation Act, 1996 on 26th December, 2015 and 19th January, 2017. The said Award dated 25th November, 2016 is subject matter of challenge in the present Arbitration proceedings.
5. The parties agreed that in order to amicably put a final end to the disputes pending between them and litigation having consumed nearly a decade, a disputes between the parties forming subject matter of the aforesaid Arbitration proceedings will be adjudicated upon by Mr. Gautam Ankhad under the provisions of the Arbitration & Conciliation Act, 1996.
6. The parties have agreed that they will be represented before the Arbitrator Mr. Gautam Ankhad by themselves or their respective accountants, but will not involve advocates in the said proceedings.
7. The parties have agreed that it will be open for the learned Arbitrator Mr. Gautam Ankhad to peruse the entire arbitration proceedings, including all applications made by the Parties if any before the prior Arbitral Tribunal and rely upon the same as also the Awards passed at various stages. It will also be open for the parties to produce such evidence as they deem fit and proper before the learned Arbitrator Mr. Gautam Ankhad the timelines stipulated by the Arbitrator.

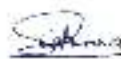


8. NSC is directed to furnish copies of the Trade Log of the Respondent for the financial year of 2011 and 2012 to the Arbitrator Mr. Gautam Ankhad within three weeks to his office situated at Orion House, 7th Floor, 4, Dubash Marg, Fort, Mumbai - 400023.
9. The Learned Arbitrator Mr. Gautam Ankhad will be entitled to peruse the earlier Arbitral Awards/appeals awarded but will decide the matter, uninfluenced by the previous arbitral / appeal awards.
10. The parties have agreed that the learned Arbitrator Mr. Gautam Ankhad would endeavour to dispose of the arbitration proceedings within a period of 4 months from the date of this Order, and in any event, conclude the same within a maximum period of 6 months from the date of the Order. The parties will not apply for any adjournment before the Learned Arbitrator under any circumstances whatsoever.
11. With a view to attain finality to the litigation, the parties have agreed to be bound by the decision of the learned Arbitrator Mr. Gautam Ankhad and have undertaken to this Hon'ble Court that his Award will not be challenged under any circumstances whatsoever.
12. Liberty to the parties to apply to this Court for any clarification/ modification of this Order.

Dated this 25th day of February, 2021


 Mr. Manoj Kumar Singh
 HRIM Finance and Securities Pvt. Ltd.
 Petitioner.

 Mr. Manoj Kumar Singh and Co.
 Advocates for Petitioner


 Mr. Ghanshyam
 For BASESONLINE (2014) Pvt. Ltd.
 Gassonline (India) Pvt. Ltd.
 Respondent.

 Kartikeya and Associates
 Advocates for Respondent

4 Accordingly, the Award dated 19th September 2013, by consent, is quashed and set aside.

5 Order in terms of the consent minutes of order.

6 The dispute between the parties is referred to arbitration before Mr. Gautam Ankhad, an Advocate practicing in this Court. Mr. Balsara and Mr. Shroff state that the parties will not raise objection of *res judicata* or principles analogous to *res judicata* and will participate in the arbitration proceedings as if the disputes were never referred to any arbitration.

7 Mr. Shroff and Mr. Balsara state that parties have agreed to the appointment of Mr. Gautam Ankad as the Sole Arbitrator knowing the fact that Mr. Ashwin Ankad, father of Mr. Gautam Ankad, is on the Panel of Arbitrators of National Stock Exchange and the parties shall not raise this as an objection at any stage. Statement accepted as undertaking to this Court.

8 The Arbitrator shall file his disclosures as required under Section 11 (8) read with Section 12 (1) of the Arbitration and Conciliation Act, 1996 directly with the parties.

9 The fees to be fixed by the Arbitrator, administrative expenses, typing charges and venue charges to be shared equally between the parties, i.e., 50% by petitioner and 50% by respondent and the same shall be subject to cost in the arbitral proceedings.

10 The procedure to be followed will also be decided by the Arbitrator as per the National Stock Exchange bye-laws and what is not prescribed under the National Stock Exchange bye-laws, the Arbitrator will apply the principle of natural justice and treat both the parties with equality.

11 I would hasten to add that the Court has not gone into the merits of the matter and all rights and contentions of the parties are kept open.

12 The National Stock Exchange to furnish copies of the trade log of respondent for the financial year 2011 and 2012 to the Arbitrator Mr. Gautam Ankad within three weeks of receiving a communication to that effect from the Arbitrator either directly or through any of the parties to the arbitration proceedings.

13 Petition accordingly stands disposed.

14 All to act on authenticated copy of this order.

(K.R. SHRIRAM, J.)