

Shephali

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

COMM ARBITRATION APPLICATION NO. 86 OF 2021

THPL Support Services Ltd	...Applicant
<i>Versus</i>	
Starlog Enterprises Ltd	...Respondent

Ms Arti Raghavan, with Aviva Jogani & Vatsala Khandelwal, i/b
Jerome Merchant for the Applicant.
None for the Respondent

CORAM: G.S. PATEL, J
(Through Video Conferencing)
DATED: 9th April 2021

PC:-

1. Heard through video conferencing.

2. The Application is under Section 11 of the Arbitration and Conciliation Act 1996. Between the parties there was a Memorandum of Understanding (“**MoU**”) dated 16th April 2018. Clause 9 contains the provision for arbitration. This contemplates a reference to a sole Arbitrator, with the venue of the arbitration being exclusively stated to the Mumbai.

3. The Respondent is absent though served. Ms Raghavan points out that repeated letters prior to the application have also gone unanswered.

4. There can be no impediment to the grant of relief and the making of an order. A Respondent cannot delay an arbitration indefinitely by simply staying away from Court.

TERMS OF APPOINTMENT

(a) **Appointment of Arbitrator:** Ms Priyanka Kothari, learned Advocate of this Court, is hereby nominated to act as a Sole Arbitrator to decide the disputes and differences between the parties under an MoU 16th April 2018.

(b) **Communication to Arbitrator of this order:**

(i) A copy of this order will be communicated to the learned Sole Arbitrator by the Advocates for the Applicant within one week from the date this order is uploaded.

(ii) The Advocates for the Applicant will forward an ordinary copy of this order to the learned Sole Arbitrator at the following postal and email addresses:

Arbitrator/s Ms Priyanka Kothari

Address Seksaria Chambers,
3rd Floor,
139, Nagindas Master Road,
Fort,
Mumbai 400 023

Mobile +91 98196 55969
(022) 2267 5204

Email Law.priyanka@gmail.com

- (c) **Disclosure:** The learned Sole Arbitrator is requested to forward, in hard copy or soft copy (or both), the necessary statement of disclosure under Section 11(8) read with Section 12(1) of the Arbitration Act to Advocates for the parties as soon as possible. The Advocates for the Applicant will arrange to file the original statement in the Registry. If the statement is forwarded in soft copy, a print out of the covering email is also to be filed in the registry.
- (d) **Appearance before the Arbitrator:** Parties will appear before the learned Sole Arbitrator on such date and at such place as the learned Sole Arbitrator nominates to obtain appropriate directions in regard to fixing a schedule for completing pleadings, etc.
- (e) **Contact/communication information of the parties:** Contact and communication particulars are to be provided by both sides to the learned Sole Arbitrator. The information is to include functional email addresses and mobile numbers.
- (f) **Section 16 application:** The respondent is at liberty to raise all questions of jurisdiction within the meaning of section 16 of the Arbitration Act. All contentions are left open.
- (g) **Interim Application/s:**

- (i) Liberty to the parties to make an interim application or interim applications including (but not limited to) interim applications under Section 17 of the Arbitration & Conciliation Act, 1996 before the learned Sole Arbitrator. Any such application will be decided in such manner and within such time as the learned Sole Arbitrator deems fit.
 - (ii) The learned Sole Arbitrator is requested to dispose of all interim applications at the earliest.
- (h) **Fees:** The arbitral tribunal's fees shall be governed by the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.
- (i) **Sharing of costs and fees:** Parties agree that all arbitral costs and the fees of the arbitrator will be borne by the two sides in equal shares in the first instance.
- (j) **Consent to an extension if thought necessary.** Parties immediately consent to a further extension of up to six months to complete the arbitration should the learned Sole Arbitrator find it necessary.
- (k) **Venue and seat of arbitration:** Parties agree that the venue and seat of the arbitration will be in Mumbai.
- (l) **Procedure:** These directions are not in derogation of the powers of the learned Sole Arbitrator to decide and frame all matters of procedure in arbitration.

5. The application is disposed of in these terms. No costs.
6. All concerned will act on production of an ordinary copy of this order.

(G. S. PATEL, J)