



IN THE HIGH COURT OF JUDICATURE AT MADRAS

(ORDINARY ORIGINAL CIVIL JURISDICTION)

MONDAY, THE 5TH DAY OF JULY 2021

THE HON'BLE MR. JUSTICE N.SATHISH KUMAR

O.P. No.359 of 2021

In the matter of Arbitration &
Conciliation Act, 1996

and

In the matter of Notice Inviting
Tender dated 07.09.2015 having e-
Tender No. EPRO/MM/HDPE
BAGS/2015-16/280915/037 dispute
between Bhagirathi Packaging Private
Limited

And

Madras Fertilizers Limited Rep. by its
DGM-MATL MGMT.The Company
Secretary & Manager- Legal, Madras
Fertilizers Limited (a Govt. of India
undertaking)

Bhagirathi Packaging Private Limited,
Represented by its Authorised Signatory,
Arun Garodia,
having its registered office at No. 21,
Chittaranjan Avenue, 1st Floor,
Kolkata - 700 072.

... Petitioner

-Versus-

1. M/s. Madras Fertilizers Limited,
(A government of India undertaking)
Manali, Chennai - 600 068.
Rep. by its Deputy General Manager
MATLS. MGMT.



2. M/s. Madras Fertilizers Limited,
(A Government of India undertaking),
Manali, Chennai - 600 068.
Rep. by its Company Secretary,
Manager - Legal.

... Respondents

Original Petition praying that this Hon'ble Court be pleased to:-

- a) appoint an arbitrator at Chennai to resolve all the disputed between the Petitioner & Respondents arising out of the Notice Inviting Tender dated 07.09.2015 having e-Tender No. EPRO/MM/HDPE BAGS/2015-16/280915/037,
- b) to order cost.

This Original Petition coming on this day before this court for hearing in the presence of Mr. Sanjib Dawn, for Ms. S. Manjula, advocates for the petitioner herein and Mr. Jayesh B Dolia, for M/s. Aiyar & Dolia, advocates for the respondents herein and upon reading the petition and the affidavit of P. Murali and Sri Arun Garodia filed herein, it is ordered as follows:-

That Mr. J. Krishnamurthy, District Judge (Retd.), 2 D, First Floor, "Nutechkrishna", No.37, Soundararajan Street, T.Nagar, Chennai 600 017. (Mobile No.9442092363) be and is hereby appointed as a Sole Arbitrator to enter upon reference and adjudicate the matter.

2. That the learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt



of the Order.

WEB COPY

3. That the learned Sole Arbitrator appointed herein shall be paid fees and other incidental charges, fixed by him and the same shall be borne by the parties equally.

4. That both parties hereto shall bear their own costs.

WITNESS THE HON'BLE MR. JUSTICE SANJIB BANERJEE,
CHIEF JUSTICE, HIGH COURT AT MADRAS AFORESAID, THIS THE
5th DAY OF JULY 2021.

Sd./-
ASSISTANT REGISTRAR (O.S.II)

//Certified to be true copy//
Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)
From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.



WEB COPY

VF-14/07/2021

4

O.P. No.359 of 2021

ORDER

DATED: 05.07.2021

THE HON'BLE MR. JUSTICE
N.SATHISH KUMAR

FOR APPROVAL: 14/07/2021

APPROVED ON : 15/07/2021

Copy to:

MR. J. Krishnamurthy,
District Judge (Retd),
Sole Arbitrator,
2 D, First Floor, "Nutechkrishna",
No.37, Soundararajan Street,
T.Nagar, Chennai 600 017.

(Mobile No.9442092363)



WEB COPY

5

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 5/7/2021

C O R A M

THE HONOURABLE Mr.JUSTICE N.SATHISH KUMAR

O.P.No.359 of 2021

Bhagirathi Packaging Private Limited
rep. By its Authorised Signatory
Mr.Arun Garodia
Registered Office at
No.21 Chittaranjan Avenue, I Floor
Kolkatta 700 072.

...

Petitioner

Vs

1. M/s. Madras Fertilizers Limited
(A Government of India Undertaking)
rep. By its Deputy General Manager
Mr.Matls MGMT
Manali
Chennai 600 068.

2. M/s. Madras Fertilizers Limited
(A Government of India Undertaking)
rep. By its Company Secretary & Manager – Legal
Manali
Chennai 600 068.

...

Respondents

Original Petition has been filed under Section 11 (6) of the Arbitration and Conciliation Act, 1996, to resolve all the disputes between the petitioner and respondents arising out of the Notice Inviting Tender, dated 7/9/2015 having e-Tender No.EPRO/MM/HDPE BAGS/2015-16/280915/037.



WEB COPY

6

For petitioner

... Mr.Sanjib Dawn
for Ms.S.Manjula

For respondents

... Mr.Jayesh B Dolia
for
Ms.Aiyar & Dolia

- - - - -

ORDER

This Original Petition has been filed, to appoint an arbitrator at Chennai, to resolve all the disputes between the petitioner and respondents, arising out of the Notice Inviting Tender, dated 7/9/2015, having e-Tender No.EPRO/MM/HDPE BAGS/2015-16/280915/037.

2. The parties had approached this Court for appointment of an Arbitrator where the parties had failed to reach an agreement under an agreed appointment procedure, as contended in Clause 10 of Annexure 9 appended in Notice Inviting Tender, dated 7/9/2015, having e-Tender No.EPRO/MM/HDPE BAGS/2015-16/280915/037 floated by the respondent Company.

3. The main dispute between the parties is with regard to excise duty. Admittedly, when a dispute arose to the contract binding between the parties, the matter may be referred to the arbitration, to refer the dispute.

4. Heard Mr.Sanjib Dawn, learned counsel for the petitioner and Mr.Jayesh B Dolia, learned counsel for the respondents.



5. The learned counsel appearing for the petitioner would submit that when the petitioner Company offered an amount to the tune of Rs.55.40 lakhs, as One Time Settlement, but the respondent Company could not respond to such offer, neither they have given consent to the appointment of an Arbitrator.

6. The main dispute between the parties is with regard to excise duty. Admittedly, when a dispute arose to the contract binding between the parties, the matter may be referred to the arbitration, to refer the dispute.

7. In such a view of the matter, considering the nature of dispute and nature of the claim amount, by consent of both sides, this Court, appoints Mr.J.Krishnamurthy, District Judge (Retd), as a sole Arbitrator to arbitrate the dispute between the parties.

8. Accordingly, this original petition is ordered as follows:

i) Mr. J.Krishnamurthy, District Judge (Retd), 2
D First Floor, "Nutechkrishna", No.37, Soundararajan
Street, T.Nagar, Chennai 600 017. (Mobile
No.9442092363), is appointed as a Sole Arbitrator to
enter upon reference and adjudicate the matter.

ii] The learned Arbitrator appointed herein, shall

after issuing notice to the parties and upon hearing



WEB COPY

them, pass an award as expeditiously as possible, preferably within a period of six months, from the date of receipt of the Order.

iii] The learned Sole Arbitrator appointed herein shall be paid fees and other incidental charges, fixed by him and the same shall be borne by the parties equally.

9. This Original Petition is ordered accordingly, leaving the parties to bear their own costs.

Sd./-N.S.K.J.,

5/7/2021

//Certified to be true copy//

Dated at Madras this the day of 2021.

COURT OFFICER(O.S.)

From 25th Day of September 2008 the Registry is issuing certified copies of the Orders/Judgments/Decrees in this format.