

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated : 09.03.2021

CORAM

THE HONOURABLE Ms. JUSTICE P.T. ASHA

O.P.No.569 of 2020

M/s.IP Softcom India Private Limited
Represented by its Director A.Ravichandran
No.18 & 19, Mahalakshmi Nagar Extn.
Numbal Village, Thiruverkadu Post
Chennai – 600 077

... Petitioner

Vs.

1.M/s.Wardwiz India Solutions Private Limited
Unit No.101, First Floor,
Pride Purple Accord, Baner Road,
Pune – 411 045

2.M/s.Welkin IT Services Private Limited
Office No.102, 1st Floor,
Pride Purple Accord, Baner Road,
Pune – 411 045

... Respondents

Prayer: The Petition is filed under Section 11 A of the Arbitration and Conciliation Act, 1996 to appoint a sole arbitrator as per clause 8 of the Contract of Guarantee dated 01.02.2020 for the purpose of adjudication of

the dispute that has arisen between the petitioner and the respondent in respect payment of legally enforceable debt from the respondents, under Section 11 of the Arbitration and Conciliation Act, 1996.

For Petitioner : Mr.V.Vinay Metha

For Respondents : Mr.Sivalinga Kesavan

ORDER

The above petition is filed for appointing an arbitrator in terms of clause 8 of the Contract of Guarantee dated 01.02.2020 entered into between the petitioner and the respondents. The respondents were served and had entered appearance on 05.02.2021. However, the counter has not been filed to date. Therefore, taking note of Section 11 (13) of the Arbitration and Conciliation Act, this Court is proceeding to pass order in the absence of the counter but the counsel has made his submission.

2. Clause 8 of the Contract of Guarantee would read as follows:

“In the event that the Corporate Debtor commits breach of the settlement Agreement the Operational Creditor has the right to proceed

against, either the Corporate Debtor or the Corporate Guarantor, to claim the remaining outstanding debt, by initiating appropriate legal action under the law including remedies under Insolvency and Bankruptcy Code, 2016. In addition to the Insolvency action, the parties agree to resolve any dispute arising out of this agreement finally by arbitration under the Indian Arbitration and Conciliation Act, 1996. The dispute shall be referred to a sole arbitrator to be appointed by the Operational Creditor. The venue of arbitration shall be Chennai. The parties agree that the entire cost of the arbitration shall be borne by the Corporate Debtor and the Corporate Guarantor.”

3. Admittedly, there is a dispute between the petitioner and the respondents. Notice have also been issued by the petitioner to the respondents herein to which despite receipt no response has been given by the respondents.

4. Therefore, taking note of the arbitration clause and the fact that disputes have arisen between the parties, this Court is passing the following order:

i) Mrs.Chitra Sampath, Senior Advocate, No.14/1 Kamatchipuram I

St, West Mambalam, Chennai – 600 033, Mob: 9962085956, is appointed as an Arbitrator.

ii) The arbitrator may, 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 entering reference. It is open to the respondent to raise all legal objections as to the validity of contract.

iii) The arbitrator is at liberty to fix the remuneration and other incidental expenses as per law.

iv) The proceedings may be conducted under the aegis of the Madras High Court Arbitration Centre and in accordance with the Madras High Court Arbitration Rules.

5. The Original Petition is ordered leaving the parties to bear their own costs. No costs.

Internet : Yes/No
Index : Yes/No
Speaking / Non-Speaking
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P.T. ASHA. J.,

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