

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

COMMERCIAL ARBITRATION APPLICATION NO. 258 OF 2021

Mphasis Ltd. ..Applicant
Vs.
Reliance Health Insurance Ltd. ..Respondent

Mr. Anuj Athalye with Ms. Samiksha Dubhashi i/b. Legasis Partners for
Applicant.
None for Respondent.

CORAM : G.S. KULKARNI, J.
DATE : JULY 11, 2022.

PC.:

1. This is an application filed under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, “the Act”) whereby the applicant has prayed for appointment of an arbitral tribunal for adjudication of the disputes and differences which have arisen between the parties under a Master Services Agreement dated 25 April, 2018. The arbitration agreement is contained in clause 15.2 of the agreement in question. In clause 17, the parties have agreed that the Courts in Mumbai shall have exclusive jurisdiction to adjudicate in case of any disputes.

2. It is the case of the applicant that the disputes and differences have arisen between the parties in as much as the applicant has performed its obligations under the contract in question and raised invoices, the details of which are set out in paragraph 4(j) of the application. Despite repeated reminders, the respondent did not make payment of the amount due and payable by them. The applicant by its notice dated 04 June, 2021 invoked the arbitration agreement. In the said notice, the applicant recorded the details of the disputes which have

arisen between the parties. In paragraph 4 of the said notice, the applicant recorded the details of the disputes which have arisen between the parties as also set out the amounts due and payable along with interest. The applicant by such notice also invoked the arbitration agreement being clause 15 of the agreement in question, calling upon the respondent to appoint an arbitral tribunal to adjudicate the disputes between the parties.

3. The respondent did not reply to the invocation notice. Accordingly, the present application has been filed.

4. These proceedings were heard on 15 March, 2022 when the following order was passed at the request of learned counsel for the respondent:-

“1. At the request of learned counsel for the respondent, stand over to 29 March, 2022.

2. Reply affidavit, if any, be placed on record, if the respondent intends to oppose the present proceedings and the same be served well in advance on the applicant.”

5. Despite a long lapse of time, the respondent has not placed on record a reply affidavit. It appears that the respondent has no intention to oppose the present proceedings. The respondent is also not represented today. Accordingly, the application is taken up for hearing.

6. As pointed out by the learned counsel for the applicant, there exists an arbitration agreement as contained in clause 15.2. Also there is lawful invocation of the arbitration agreement by the applicant's notice dated 04 June, 2021 and as the respondent has not agreed for appointment of an arbitral tribunal, the present application was filed.

7. In my opinion, all the requirements for this Court to exercise its jurisdiction under Section 11(6) of the Act are eminently present. The

application is accordingly required to be allowed. It is allowed by the following order:-

ORDER

- (i) Mr. Jay Sanklecha, Advocate of this Court is appointed as a sole Arbitrator to arbitrate the disputes and differences between the parties under the Master Services Agreement dated 25 April, 2018.
- (ii) The learned prospective sole arbitrator, before entering the reference, shall forward a statement of disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996, to the Prothonotary & Senior Master of this Court, to be placed on record of this application with a copy to be forwarded to both the parties;
- (iii) The fees payable to the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators) Rules, 2018.
- (iv) At the first instance, the parties shall appear before the prospective arbitrator within 15 days from today on a date which may be mutually fixed by the prospective sole arbitrator;
- (v) All contentions of the parties are expressly kept open;
- (vi) The application is disposed of in the above terms. No costs.
- (vii) Office to forward a copy of this order to the learned Arbitrator on the following address:

“Mr. Jay Sanklecha, Advocate of this Court,

Address: C/o. Dr. Birendra Saraf, 3rd Floor, Oval House,
Nagindas Master Road, Fort, Mumbai – 400 0001.

Mobile No. 8291065756

E-mail ID: jaysanklecha@gmail.com”.

[G.S. KULKARNI, J.]