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Arb.O.P.(Com.Div.).No.553 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: 12.12.2022

Coram:

THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

Arbitration Original Petition (Com.Div.) No.553 of 2022

Microchip Technology India Pvt. Ltd.,
Represented by Ms.Ann Saravanan,
Plot No.149-B, EPIP-I, Phase Industrial Area,
Whitefield, Bangalore – 560 066.

... Petitioner

Vs.

M/s.Rattha Holding Company Private Limited,
Represented by Mr.Gurmeet Sidana,
6th Floor, Tower – C, Tek Meadows,
No.51, Rajiv Gandhi Salai (OMR),
Sholinganallur,
Chennai – 600 119.

... Respondent

Prayer: This Arbitration Original Petition is filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 praying to appoint an arbitrator to adjudicate the disputes between the petitioner and the respondent in terms of the lease deed dated 26.10.2016.

For Petitioner : Ms.S.Brindaa

For Respondent : Mr.Keerthikiran Murali



ORDER

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This petition has been filed under Section 11(5) of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator to resolve the dispute arising out of the Lease Deed dated 26.10.2016.

2.The petitioner company is incorporated and registered under the Companies Act, 1956. The present petition has been filed for constituting Arbitral Tribunal to adjudicate the dispute that has been arisen between the parties under the Lease Deed dated 26.10.2016. The said Lease Deed provides for resolution of dispute by way of arbitration. Clause 19 of the relevant portion of the Lease Deed is extracted hereunder:

19.Dispute Resolution

“19.1 All disputes arising out of this Lease Deed shall be referred to arbitration under the provisions of the Arbitration and Conciliation Act, 1996. The Lessor shall be entitled to appoint one arbitrator and the Lessee shall be entitled to appoint one arbitrator. The two arbitrators shall appoint a Presiding Arbitrator. The decision of the Arbitral Tribunal so appointed shall be binding upon the Lessor and the Lessee.

19.2 The proceedings shall be conducted in the English Language. The place of arbitration shall be Chennai.”



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3. Learned counsel for the petitioner submitted that the petitioner and the respondent have entered into a Lease Deed dated 26.10.2016 at Chennai. The demised premises is the built up space comprising of the entire 5th floor of the building described as Block A in Campus Tek Meadows with a total chargeable area of 41,485 sq.ft. along with 38 open car parking slots in the ground level and 4 closed car parking slots in the area around Block A. As per the terms of the Lease Deed, a sum of Rs.2,15,72,200/- interest free refundable security deposit was paid by the petitioner to the respondent which is not in dispute. Of which Rs.21,57,220/- was paid vide cheque bearing dated 22.09.2016 and Rs.1,94,14,980/- was paid through RTGS at the time of the execution of Lease Deed i.e. on 26.10.2016. As per Clause 6.2 of the Lease Deed, it was agreed between the petitioner and the respondent. The above security deposit shall be refunded to the petitioner simultaneously upon handing over the vacant possession to the respondent on the expiry or early termination of the lease. According to the petitioner, the respondent is liable to pay the security deposit for a sum of Rs.53,27,785/-, the same has not yet been refunded to the petitioner. Therefore, the respondent is bound to pay 18% interest per annum from 06.07.2019.



4.Learned counsel for the respondent submitted that the respondent gave an offer to refund a sum of Rs.53,27,785/- without interest in the year 2020. But, the petitioner has not responded till date.

5.Learned counsel for the petitioner further submitted that there is no material proof for the submission made by the learned counsel for the respondent with regard to the respondent's willingness to refund a sum of Rs.53,27,785/- in the year 2020.

6.Heard the learned counsel for the petitioner and the learned counsel for the respondent and perused the materials placed on record.

7.It could be seen from records that the petitioner and the respondent had entered into a Lease Deed dated 26.10.2016. The petitioner by invoking Clause 19.1 of the above Lease deed which permits for resolution of any dispute between the petitioner and the respondent through arbitration, issued a notice dated 08.01.2022 in which the petitioner appointed one Advocate as its Arbitrator and called upon the respondent to appoint its Arbitrator so that two of them can appoint the Presiding Arbitrator as per Clause 19.1 of the Lease Deed. Though



they received the above notice on 11.01.2022 neither appointed its Arbitrator nor did reply to the petitioner's notice. The above dispute has arisen under the Lease Deed dated 26.10.2016 regarding the refund of admitted security deposit. Since the respondent had failed to nominate its Arbitrator within the statutory period of 30 days from the date of receipt of the above notice, the petitioner is left with no other alternative remedy to approach this Court.

8.On a perusal of the above, it is clear that any dispute arising out of contract/agreement between the parties, the matter can be adjudicated and settled by an Arbitrator.

9.Therefore, this Court is of the view that an Arbitrator be appointed to enter upon reference and adjudicate the dispute in accordance with law. As both the parties agreed for appointment of the Arbitrator, this Court feels it appropriate to pass the following order:

i)Mr.P.Ganesan, District Judge (Retd.) is appointed as Arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties.

ii) That the learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, pass an award as



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expeditiously as possible, preferably within a period of six months from the date of receipt of a copy of the Order.

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

10.This Original Petition is ordered accordingly, leaving the parties to bear their own costs. Since this Court has appointed an Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs under the provisions of Arbitration and Conciliation Act 1996 before the Arbitrator.

12.12.2022

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KRISHNAN RAMASAMY, J.

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To

Mr.P.Ganesan, District Judge (Retd.)
77B, Judges Colony,
Kakithapuram 4th Street,
S.Kolathur,
Kovilambakkam,
Chennai – 600 117.
(Mob.Nos.96000 45571 & 96000 45570)

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