



WEB COPY



Arb.O.P.(Comm.Div.) No.535 of 2022

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 13.10.2022

CORAM

THE HONOURABLE MR.JUSTICE SENTHILKUMAR RAMAMOORTHY

Arb.O.P.(Comm.Div.) No.535 of 2022

M/s.Form Print,
Represented by its Partner
M.A.M.Ganesh,
No.9, 1st Floor, Baker's Street,
Parrys, Chennai - 600 001.

... Petitioner

vs.

M/s.Ganesh Carton India Private Ltd.,
No.871/1 Lotus Colony,
Thathankulam Road,
Madhavaram, Chennai 600 060.
Respondent

...

PRAYER: Arbitration Original Petition filed under Section 11(4) of the Arbitration and Conciliation Act, 1996, pleased to appoint an Arbitrator to adjudicate and resolve the disputes through arbitral proceedings between the parties.

For Petitioner : Mr.K.T.Sankar Subramaniam



WEB COPY



Arb.O.P.(Comm.Div.) No.535 of 2022

ORDER

The petitioner seeks constitution of an arbitral tribunal pursuant to the order issued by the Micro and Small Enterprises Facilitation Council on 27.01.2020. By the said order, the Facilitation Council concluded that conciliation had failed and referred the case for arbitration before the Madras High Court Arbitration Centre. The relevant paragraph of the said order is set out below:

"In the Council meeting held on 27.01.2020, the petitioner was present and represented by Thiru.S.Vasantharaman and the respondent was present and represented by Thiru.A.Kripakaran. During the last hearing the council had advised both the petitioner and the respondent to have a conciliation meeting, for setting the issue. As the conciliation process had failed, and both the petitioner and the respondent had agreed for arbitration, the council decided to refer this case for arbitration. Accordingly, both sides agreed for nomination of the Madras High Court Arbitration Centre for the arbitration process to resolve the issue. This Facilitation Council ordered accordingly to refer the case to



the Madras High Court Arbitration Centre for arbitration, as per provisions contained under the Sections 18(2), (3) and (4) of the MSMED Act, 2006."

2. Parties are entitled to approach this Court under the applicable Sub-Sections of Section 11 of the Arbitration and Conciliation Act, 1996 only in relation to disputes covered by an arbitration agreement. In the case at hand, the contract between the parties does not contain an arbitration clause and the petitioner invoked the provisions of the Micro Small and Medium Enterprises Development Act, 2006 (the MSMED Act). The order referred to above was issued in terms of Section 18(3) of the above enactment, which reads as under:

"18(3). Where the conciliation initiated under sub-section (2) is not successful and stands terminated without any settlement between the parties, the Council shall either itself take up the dispute for arbitration or refer to it any institution or centre providing alternate dispute resolution services for such arbitration and the provisions of the Arbitration and Conciliation Act, 1996 (26 of 1996) shall then apply to the dispute as if the arbitration was in pursuance of an arbitration agreement referred to in sub-section (1) of section 7 of that



Arb.O.P.(Comm.Div.) No.535 of 2022

Act.”

WEB COPY

3. Therefore, the petitioner should take up the matter with the Madras High Court Arbitration Centre for the constitution of an arbitral tribunal as per the directions of the Facilitation Council under the MSMED Act.

4. This petition is disposed of on the above terms.

13.10.2022

rna

Index : Yes / No

Internet : Yes / No



WEB COPY



Arb.O.P.(Comm.Div.) No.535 of 2022

SENTHILKUMAR RAMAMOORTHY,J

rna

Arb.O.P.(Comm.Div.) No.535 of 2022



WEB COPY



Arb.O.P.(Comm.Div.) No.535 of 2022

13.10.2022