

**IN THE HIGH COURT FOR THE STATE OF TELANGANA
AT HYDERABAD**

**FRIDAY, THE THIRTIETH DAY OF DECEMBER
TWO THOUSAND AND TWENTY TWO**

PRESENT

THE HONOURABLE SRI JUSTICE B.VIJAYSEN REDDY

ARBITRATION APPLICATION NO: 124 OF 2022

Between:

M/s. SHV Energy Pvt. Ltd, SUPERGAS House, IVth Floor, SDE Serene Chambers,
8-2-334, Road No. 7, Banjara Hills, Hyderabad 500 034 Represented by its
Authorized Signatory, Ritwik Raj, Aged 24 Years S/o. Dhananjay Agrawal Ph. No
040-23540079 Email Id. ritwik@supergas.com

...APPLICANT

AND

M/s. Vasantha Bhavan Hotels (I) Pvt. Ltd. Corporate Office at 34, South Phase,
Developed Plot Estate, Guindy, Chennai- 600032,

...RESPONDENT

Arbitration Application Under Section 11 (6) of the Arbitration and
Conciliation Act, 1996 R/w. Scheme for Appointment of Arbitrators, 2000 praying
that for the reasons stated in the accompanying affidavit filed therewith, the
Hon'ble Court may be pleased to kindly take necessary measures for the
appointment of the arbitral tribunal in terms of clause 20 of the Agreement dated
29-01-2011 and appoint a sole arbitrator to resolve the disputes between the
Applicant and the Respondent arising out of the said agreement.

Counsel for the Petitioner: M/s. R.S. ASSOCIATES

Counsel for the Respondent: NONE APPEARED

The Court made the following: ORDER

HON'BLE SRI JUSTICE B. VIJAYSEN REDDY

ARBITRATION APPLICATION No.124 OF 2022

ORDER : (ORAL)

Heard M/s R.S. Associates, learned counsel for applicant, and perused the material on record.

2. None appears for the respondent despite service of notice.

3. An agreement dated 29.01.2011 was entered into between the applicant and respondent companies, wherein the applicant company agreed to install the complete system of 2 x 30 size manifold which includes 60 number of 33 KG Supergas LPG Cylinders, regulators, pigtails, primary piping, primary pressure regulatory systems etc., along with other associated services (hereinafter collectively referred to as 'SGS') at the facilities of the respondent company situated at Chennai.

4. It is the case of the applicant that as per the terms and conditions of the agreement, the applicant has installed the SGS and has been supplying LPG. However, the respondent company has stopped purchasing supplies from the applicant since 21.03.2020 and has failed to clear the outstanding dues from January 2020 to March 2020 for the supplies already made by the applicant. As per clause 3(b) of the agreement, the respondent company was under obligation and commitment to purchase a guaranteed

minimum quantity of 8.9 MT of LPG per month from the eighth month of commissioning of the SGS. The respondent company gave a projection that it would procure approximately 10MT of LPG per month and under this assurance the applicant agreed to set up SGS system at the premises of the respondent company. Further, respondent has specifically agreed to purchase LPG supplies from the applicant during the tenure of the agreement. The tenure of the agreement, as per clause 4, is 10 years, covering the period from 29.01.2011 to 28.01.2021, with the option of renewal at consensus of the parties. The applicant has requested the respondent company to clear the due amount of Rs.12,83,751/- and as there was no response for the same from the respondent, as per clause 11 of the agreement, it was constrained to issue the legal notice dated 07.09.2020, calling upon the respondent company to clear the outstanding dues. Reply dated 16.09.2020 was issued by the respondent company making frivolous allegations against the applicant and claiming that disbursement of outstanding amounts were delayed due to the pandemic and made a meagre part payment of Rs.2,00,000/-. Subsequently, the applicant was constrained to issue second legal notice vide e-mail dated 09.04.2021 for payment of outstanding dues. Reply was issued via e-mail dated 12.04.2021 by the respondent with a settlement proposal of re-payment of outstanding dues at Rs.2,00,000/- per month. The applicant did not

approve the settlement proposal because despite various assurances of repayment, the respondent failed to make payments. The applicant has issued an Arbitration Notice vide e-mail dated 06.05.2021 by invoking clause 20 of the agreement dated 29.01.2011, proposing the name of Mr. K. Sanga Reddy, Retired District Judge, as sole Arbitrator for resolving the disputes. Further, the respondent was called upon to provide confirmation or suggest name of another arbitrator within ten (10) days from the date of receipt of the arbitration notice. The respondent replied vide e-mail dated 17.05.2021 admitting that there are pending dues, however intimated that due to pandemic their operations have been shut down and requested time for a detailed reply.

5. In the above circumstances, the applicant approached this Court seeking appointment of arbitrator in terms of Clause - 20 of the agreement dated 29.01.2011 between the parties. Notice sent to the respondent has been served. Proof of service is filed vide USR No.81836 of 2022. To the notice dated 06.05.2021 invoking arbitration issued by the applicant, a reply dated 17.05.2021 has been issued by the respondent admitting the pending due amount and intimating that operations of the respondent have been shut down due to the cause stated in the earlier reply dated 16.09.2020. Thus, the respondent has admitted the dues payable to the applicant. However, as the amounts were not paid, arbitration clause was

invoked as contemplated under Section 11 of the Arbitration and Conciliation Act 1996 (for short 'Arbitration Act'). There is no contest from the respondent and they remained Ex parte.

6. Accordingly, this arbitration application is allowed appointing Mr. R. Damodar, Retired District Judge, Flat No.204, H.No.1-13-1/2/1/A, MNR Sripadham, Plot No.1, Block No.13, Alkapuri Colony, Saroornagar, Ranga Reddy District – 500035 as Arbitrator to arbitrate on the disputes between the applicant and the respondent and the learned Arbitrator shall enter on reference and proceed with, as enjoined by the Arbitration Act.

7. The learned Arbitrator is entitled to fees as per the rates specified in the Schedule - IV to Arbitration Act, inserted by Act 3 of 2016 with effect from 23.10.2015, which shall be borne by both parties in equal shares.

As a sequel thereto, miscellaneous applications, if any, pending in this arbitration application shall stand closed.

Sd/- C.V. MALLIKARJUNA VARMA
JOINT REGISTRAR

//TRUE COPY//

SECTION OFFICER

To,

1. Sri R. Damodar, Retired District Judge, Flat No. 204, H.No. 1-13-1/2/1/A, MNR Sripadham, Plot No.1, Block No. 13, Alkapuri Colony, Saroornagar, Ranga Reddy District – 50035. (by Special Messenger) (along with a copy of affidavit and material papers)
2. One CC to M/s. R.S. ASSOCIATES, Advocate [OPUC]
3. Two CD Copies

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HIGH COURT

DATED:30/12/2022

ORDER

ARB.APPL.No.124 of 2022



ALLOWING THE ARBITRATION APPLICATION

④ vsw
10/2/23