

AP/49/2023

IN THE HIGH COURT AT CALCUTTA
ORIGINAL CIVIL JURISDICTIONSWISS SINGAPORE INDIA PVT. LTD.
VERSUS
BELSERI TEA CO. (INDIA) PVT. LTD.BEFORE:
THE HON'BLE CHIEF JUSTICE PRAKASH SHRIVASTAVA
DATE : 16TH FEBRUARY, 2023.

APPEARANCE:

*Mr. Rajiv Lall, Advocate
.....for the applicant*

The Court: This application under Section 11 of the Arbitration and Conciliation Act, 1996 has been filed for appointment of the arbitrator to resolve the disputes between the parties.

Learned counsel for the applicant has pointed out that the Contract for Sale of Certified Organic Teas produced by the respondent was entered into between the parties on 11th March, 2021 which contained the following arbitration clause:

“U. Buyer and seller will endeavor to settle disputes and differences arising out of or relating to this Agreement amicably and mutually. In the event of failure to settle disputes mutually, the same will be referred to the Calcutta Tea Traders Association for arbitration. If there is no settlement even thereafter, the matter will be subject to the jurisdiction of the Hon’ble Calcutta High Court.”

He has further submitted that the dispute had arisen since the respondent had initially supplied tea in terms of the Contract but subsequently had failed to make the supply. Therefore, the attempt for mutual settlement was made which could not succeed. Hence, the applicant had approached the Calcutta Tea Traders Association which by communication dated 18th July, 2022 had refused to arbitrate the dispute. Thereafter, the applicant had sent

the notice dated 29th September, 2022 to the respondent invoking the arbitration clause and proposing the name of three arbitrators for appointing one of them as sole arbitrator. But in spite of receipt of the said notice, no response was given by the respondent.

In the AP also in spite of service of notice, the respondent has not entered appearance, therefore, the averments made by the applicant have remained uncontroverted. The uncontroverted plea reveals that the arbitration agreement exists between the parties and on account of the subsisting dispute, the due notice in terms of Section 21 of the Act has been served. Hence, I am of the opinion that the case for allowing the prayer made in the AP for appointment of the sole arbitrator is made out. Thus, the AP is allowed.

Mr. Bishajib Ghosh (9836461646) an Advocate of this Court is appointed as the sole arbitrator, subject to submission of declaration by the arbitrator in terms of Section 12(1) in the form prescribed in the Sixth Schedule of the Act before the Registrar, Original Side of this Court within four weeks from today.

Let this order be conveyed to the arbitrator by the Registrar, Original Side forthwith.

Accordingly, AP is disposed of.

(PRAKASH SHRIVASTAVA, C.J.)