

OD – 15

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

AP/219/2023

SRI SOLAI MALAI PITCHAI
-Versus-
M/S. EXIDE INDUSTRIES LIMITD

BEFORE :
THE HON'BLE JUSTICE SABYASACHI BHATTACHARYYA
Date : 8th May, 2023

Appearance :
Mr. Debraj Sahu,
Mr. Sumit Dhar, Advs.
..for the petitioner.

Mr. Reetobroto Mitra,
Ms. Radhika Singh, Advs.
..for the respondent.

The Court : A composite invocation has been made by the petitioner with regard to four agreements which pertain respectively to Madurai, Coimbatore, Trichy and Tirunelveli, being respectively dated October 1, 2006, November 1, 2006, December 1, 2007 and December 1, 2007.

It is argued that in view of the parties to the agreements being the same and the subject-matter of the agreements also being identical, the common invocation in respect of all the four agreements was justified in law. Accordingly, an Arbitrator be appointed.

Learned counsel appearing for the respondent submits that although the subject-matter of the agreements may be identical, there are differences in the dates, tenure and the rates of the agreements inter se.

However, upon a consideration of the materials annexed to the present application, it is evident that in reply to the invocation under Section 21 of the Arbitration and Conciliation Act, 1996, the respondent had raised a counter claim, apparently unifying a composite claim with regard to all the said agreements.

As such, as rightly suggested by learned counsel, a single Arbitrator can be appointed to decide the separate disputes, which are identical in nature, arising out of the four contracts.

There being substantial consensus with regarding to appointment of Arbitrator and since the disputes are arbitrable and there is a valid arbitration clause in each of the agreements, within the purview of which the present disputes fall, it would only be proper if a single Arbitrator is appointed to decide all the issues between the parties.

Accordingly, AP 219 of 2023 is allowed, thereby appointing Mr. Probal Mukherjee (Mobile No. 9830090750), a Senior Advocate of this Court, as the Sole Arbitrator to decide all the disputes between the parties arising out of the said

respective agreements dated October 1, 2006 (Madurai), November 1, 2006 (Coimbatore), December 1, 2007 (Trichy) and December 1, 2007 (Tirunelveli), subject to obtaining his consent/declaration under Section 12 of the 1996 Act.

All issues, including maintainability and limitation of the disputes and the counterclaim shall be kept open for being decided by the learned Arbitrator.

(SABYASACHI BHATTACHARYYA, J.)

S.Das/