

Vinita

**IN THE HIGH COURT OF BOMBAY AT GOA
ARBITRATION PETITION NO. 1 OF 2023.**

BLUESTREAM SOFTWARE SOLUTIONS
(OPC) PVT. LTD REP BY DIRECTOR
MELFORD DSOUZA

... Petitioner.

VS

SAMEER ARYA

...Respondent

Mr Y. Nadkarni and Ms S. Khadilkar, Advocate for the
Petitioner.

Mr A. Nayak Salatry, Advocate for the respondent.

CORAM: B. P. DESHPANDE, J
DATED: 7th December 2023

P.C.

1. This is an petition for appointment of arbitrator filed under
Section 11 of the Arbitration and Conciliation Act, 1996 (for short “the
Arbitration Act”) .

2. Petitioner and the respondent are engaged in business
transaction and accordingly entered into an agreement which is
called a Service Level Agreement dated 1.7.2022. Agreement contains
an arbitration clause and it provides that in case of any dispute
between the parties, the same shall be referred and settled by
arbitration of three arbitrators, one appointed by each party and third
to be appointed by two arbitrators.

3. Today vide memo dated 6.12.2023, both the parties agreed that instead of appointing three arbitrators, sole arbitrator be appointed to adjudicate the dispute.

4. Since there is an arbitration clause in the agreement and as dispute arose between the parties in connection with Service Level Agreement and as parties now desirous of appointing sole arbitrator thereby modifying the arbitration clause, Mr. U. V. Bakre, a Former Judge of this Court, is hereby appointed as the Sole Arbitrator to adjudicate the disputes and differences between the parties.

5. In these circumstances, the following order is passed :-

- a. Justice U. V. Bakre, a Former Judge of this Court, is appointed as the Sole Arbitrator to decide upon the disputes and differences between the Applicant and the Respondent arising out of agreement dated 1.7.2022.
- b. A copy of this order will be communicated to the learned Sole Arbitrator by the Advocate for the Applicant within a period of one week from today.
- c. The learned Sole Arbitrator is requested to forward his Statement of Disclosure under Section 11 (8) read with Section 12 (1) of the

Arbitration Act to the Advocate for the Applicant so as to enable him to file the same in the Registry of this Court. The Registry of this Court shall retain the said Statement on the file of this Application and a copy of the same shall be furnished by the Advocates for the Applicant to the Advocates for the Respondent.

- d. The parties shall appear before the learned Sole Arbitrator on such date and at such place as he nominates to obtain appropriate directions with regard to fixing a schedule for completing pleadings etc. The Arbitral Tribunal shall give all further directions with reference to the arbitration and also as to how it is to proceed.
- e. Contact and communication particulars shall be provided by both sides to the learned Sole Arbitrator within a period of one week from today. This information shall include a valid and functional email address as well as the mobile numbers of the respective Advocates.
- f. The parties have agreed that the Sole Arbitrator shall charge his fees as per the 4th Schedule of the Arbitration and Conciliation Act, 1996 read with the Bombay High Court (Fee payable to Arbitrators) Rules, 2018. The parties have further agreed that all the arbitral costs and the fees of the Arbitrator will be borne by the

Applicant and the Respondent equally and will be subject to the final Award that may be passed by the Tribunal.

- g. The parties immediately consent to a further extension of six months to complete the arbitration, should the learned Sole Arbitrator find it necessary.
- h. The parties have agreed that the seat of the arbitration will be at Panaji, Goa. However, the venue of the Arbitration shall be decided by the Sole Arbitrator taking into consideration convenience of the parties as well as his convenience.

6. In view of above, petition stands disposed of.

B. P. DESHPANDE, J

VINITA VIKAS
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