

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO. 86 OF 2019**

M/s. Steel Works & Power Engineers Private Limited ... Petitioner

VS.

M/s. Gammon India Limited ... Respondent

Mr. Kundanlal M. Patil a/w. Ms. Anjali B. Patil for petitioner.

CORAM : MANISH PITALE, J

DATE : 19th APRIL, 2023

P.C. :

. By this petition filed under Section 11 of the Arbitration and Conciliation Act, 1996, the petitioner has approached this Court for appointment of arbitrator for resolution of disputes between the parties. This Court issued notice in the present petition. The respondent was duly served and an office report records this fact. In fact, record also shows that a counsel has entered appearance on behalf of the respondent on earlier occasion, but today, there is no appearance on behalf of the respondent.

2. This Court has heard the learned counsel for the petitioner, in order to consider the prayer made in the petition. Attention is invited to clause No.24 of the letter of intent, issued in favour of the petitioner, for preparation of shop drawings, procurement of materials, etc. by the respondent. The said clause stipulates that in case disputes arise between the parties, in connection with the contract, the same shall be referred to the sole arbitrator, to be appointed by the Chairman and Managing Director of the respondent.

3. Upon disputes having arisen between the parties, by notice dated 27th February, 2017, the petitioner raised certain claims against the respondent and also, invoked the arbitration clause. On 5th June, 2017, the respondent sent response to the said notice. But, the arbitrator could not be appointed for resolution of disputes between the parties. In this backdrop, the petitioner was constrained to file the present petition.

4. Bare perusal of the arbitration clause would show that the same is hit by Section 12(5) read with Seventh Schedule of the aforesaid Act. Therefore, this Court will have to exercise power to appoint a neutral arbitrator.

5. As noted hereinabove, the respondent has chosen not to appear before this Court, despite notice being served.

6. This Court is inclined to allow the present petition. Considering the nature of claims raised, it would be appropriate that an advocate practising in this Court, available at Mumbai, is appointed as the arbitrator.

7. Accordingly, Advocate Mr. Ashok G. Toraskar is appointed as the sole arbitrator. The details of the learned arbitrator are as follows:

303, Green House, Green Street,
Opp. Old Custom House (Cheeta Gate),
Fort, Mumbai – 400 001.
Res.: 2887 0117
Mob.: 9702469011

8. The petitioner undertakes to inform the learned arbitrator about the order passed today, at the earliest.

9. The learned arbitrator is requested to submit his consent and disclosure statement in terms of Sections 11(8) and 12(1) of the aforesaid Act within four weeks from today to the Registrar (Judicial) of this Court. The fees of the learned arbitrator shall be as per the Fourth Schedule to the said Act.

10. All questions are left open for determination by the learned arbitrator.

11. The petition stands disposed of.

(MANISH PITALE, J)

Priya Kambli