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Arb.O.P (Com.Div.) No.19 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 27.06.2023

CORAM

THE HON'BLE Mr. JUSTICE KRISHNAN RAMASAMY

Arb.O.P (Com.Div.) No.19 of 2023

M/s.Ramola International
Rep by its Proprietor,
Mr.G.V.Krishnamurthi
No.252, Kilpauk Garden Road,
Kilpauk Garden,
Chennai 600 010

... Petitioner

Vs.

M/s.GIA Merchandiisers Private Limited,
Rep by Mr.Jawahar Rajan and Ms.S.Revathi
Registered Address:
D/No-7/1532-Natesh Illam G N Garden,
Venkateswara Garden 1st Street,
Neruperchical Tiruppur Coimbatore, TN 641 602
and also at:
No.109, Poonamallee High Road,
Sivaputham Village,
Vanagaram, Chennai 600 095.

... Respondent

Arbitration Original Petition filed under Section 11(6) of the
Arbitration and Conciliation Act, 1996 to appoint a sole Arbitrator to



adjudicate on the disputes between the petitioner and the respondent as per the provisions of the Arbitration and Conciliation Act, 1996 and for the award costs of the petition.

For Petitioner : Mr.Leelesh Sundaram
For Respondent : No appearance

ORDER

This petition is filed to appoint a sole Arbitrator to adjudicate on the disputes between the petitioner and the respondent as per the provisions of the Arbitration and Conciliation Act, 1996 (hereinafter called as “the Act”).

2. The learned counsel for the petitioner would submit that the respondent had entered into a Contract dated 30.05.2021 for the purpose of managing the goods. Now, there is a dispute arose between the parties with regard to the payment. Therefore, he would contend that the said dispute is arising out of the Contract and the same is arbitrable in terms of Clause 25 of the said Contract, which reads as follows:

“25. In case of any misunderstandings or arguments between both parties then both parties should sit and talk and try to settle the matters amicably. If no proper results can be achieved by such mutual discussions then the matter shall be



brought to the Arbitrators in Chennai and their decision shall be final and to be accepted by both parties.”

3. Further, he would submit that a notice under Section 21 of the Act has been issued to the respondent. However, the respondent had not replied to the said notice. Hence, the petitioner had filed this original petition.

4. After filing of this petition, notice was ordered to the respondent and the name of the respondent was also printed in the cause list. However, when the matter was taken up for hearing today, none appeared on behalf of the respondent, which shows that the respondent is not interested in contesting this matter. Therefore, this Court proceeds to pass orders.

5. Heard the learned counsel for the petitioner and also perused the materials available on record.

6. In view of the above, this Court is satisfied that the present dispute is arising out of the said agreement and the same is arbitrable in terms of Clause 25 of the said Contract. Hence, this Court is inclined to appoint a sole Arbitrator.



7. Accordingly, this Court feels it appropriate to pass the following order:

i) The Hon'ble Mr.Justice M.Govindaraj, Former Judge, Madras High Court, residing at No.4/225, Sri Kapaleeswarar South 2nd Street, Neelangarai, Chennai -41 and (Contact No.9444094403), is appointed as sole arbitrator to enter upon reference and adjudicate the disputes *inter se* the parties

ii) The learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, pass an award as expeditiously as possible, preferably within a period of six months from the date of receipt of the Order. The learned Arbitrator is also directed to decide the matter without influenced by the observations made by this Court in the present order.

iii) The learned Sole Arbitrator appointed herein shall be paid fees and other incidental charges, as per Schedule IV of the Act and the same shall be borne by the parties equally. In the event of non-appearance of the respondent, the petitioner shall bear the entire remuneration and other expenses and thereafter, the petitioner can recover the same directly from the respondent and vice versa.

8. With the above directions, this Arbitration Original Petition is



allowed.

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27.06.2023

Speaking/Non-speaking order
Index : Yes / No
Neutral Citation: Yes / No
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KRISHNAN RAMASAMY.J.,
nsa

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