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Arb. O.P(Com.Div). No.58 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.03.2023

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THE HONOURABLE MR. JUSTICE KRISHNAN RAMASAMY

Arb. O.P(Com.Div). No.58 of 2023

CMA CGM Logistics Park Dadri Pvt. Ltd.,
Rep. by its CEO / Authorised representative,
Capt. Virender Mohan Bawa,
Tilpata Road, ICD Dadri,
Greater Noida, U.P - 201311

... Petitioner

Vs.

ETA General Pvt. Ltd.,
Rep by its Director / Authorised Signatory,
ETA Star House, Old No.63, New No.71,
Sterling Road, Nungambakkam,
Chennai -34.

... Respondent

PRAYER : Original Petition is filed under Section 11 (5) of the Arbitration and Conciliation Act, 1996, praying to appoint an Arbitrator in accordance with Clause 21 of the CFS / Customs Bonded Warehouse Contract, dated 24.01.2017, to adjudicate upon the disputes that have arisen between the parties in relation to the said Agreement.

For Petitioner : Mr.P.Subburaj

For Respondents : Mr.J.Ranjith Kumar

ORDER



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This petition has been filed under Section 11 (5) of the Arbitration and Conciliation Act, 1996, praying to appoint an Arbitrator in accordance with Clause 21 of the CFS / Customs Bonded Warehouse Contract, dated 24.01.2017, to adjudicate upon the disputes that have arisen between the parties in relation to the said Agreement.

2.Both the learned counsel appearing for the respective parties would submit that the present dispute is arising out of the CFS / Customs Bonded Warehouse Contract, dated 24.01.2017. They would further submit that the present dispute is arbitral and therefore, the same can be referred to arbitration Clause 21 of the CFS / Customs Bonded Warehouse Contract, dated 24.01.2017, which reads as follows:

“In case of any dispute or claims that may arise under this contract the same shall be referred to arbitration under the Arbitration and Reconciliation Act, 1996 and settled/resolved by a Sole Arbitrator nominated by us and such arbitral proceedings shall be conducted at Chennai. The Arbitration proceedings shall be English.”

3.By referring the above Clause, learned counsel appearing for the



petitioner requested to appoint Mr.T.Sai Krishnan, Advocate, as the Sole arbitrator. Learned counsel appearing for the respondent filed a memo suggesting the three Advocates viz., (1).Mr.Arun C Mohan, (2).Mr.S.Arunachalam and (3) Mr.K.Sridhar and requested to appoint any one of them as the Sole Arbitrator.

4.Considering the submissions made by the learned counsel appearing for both the parties and a perusal of Clause 21 of the CFS / Customs Bonded Warehouse Contract, dated 24.01.2017, it is clear that the present dispute is arbitable in terms of the said Contract dated 24.01.2017. Hence, this Court is inclined to appoint an Arbitrator to adjudicate the dispute between the petitioner and the respondent.

i) Accordingly, **Mr.T.Sai Krishnan, Advocate, Office at No.48/148, Second Floor, Vanguard House, Moore Street, Chennai – 600 001, (Contact No.9840229542),** is appointed as the 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, without



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influencing any of the observations made by this Court in this order.

iii) Learned Arbitrator is requested to conduct arbitration proceedings in accordance with the Madras High Court Arbitration Proceedings Rules, 2017 and the fee of the learned Arbitrator shall be fixed in accordance with Madras High Court Arbitration Centre (MHCAC) (Administrative Cost and Arbitrator's Fees), Rules 2017.

iv) In the event of non-appearance of the respondent herein, the petitioner herein shall bear the entire remuneration and other expenses and thereafter, the petitioner can recover the same directly from the respondent herein.

5.This Original Petition is ordered accordingly, leaving the parties to bear their own costs. Since this Court has appointed an Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs under the provisions of Arbitration and Conciliation Act 1996 before the Arbitrator.

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KRISHNAN RAMASAMY. J.,
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