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Arb.O.P(Com.Div.)No.346 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.346 of 2023

M/s.Mercedes-Benz Financial
Service India Private Limited,
Formerly known as
M/s.Daimler Financial Services India Private Limited,
Represented by its Executive Legal Sadam Hussain ... Petitioner

Vs.

1.M/s.Vighnaharta Travels and Resorts Private Limited,
Represented by its Director Arun Indru Tadani

2.Arun Indru Thadani ... Respondents

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 read with Clause 2 of the Appointment of Arbitrator's Scheme by the Chief Justice of Madras High Court's Scheme, 1996, praying to appoint a Sole Arbitrator to adjudicate the disputes arisen between the petitioner and the respondent and to direct the respondent to pay the cost of this petition.

For Petitioner : Mr.Kandeep Shravan for
M/s.Pass Associates

For Respondents : Mr.Prem Anand

ORDER



The learned counsel for the respondents submits that he would like to withdraw his vakalat as the respondents are not giving any instructions in this case.

2. Notice was served on the respondents. The counsel was engaged to appear before this Court by the respondents. The vakalat has also not been withdrawn till date. The dispute between the parties is arbitrable in terms of Clause 85 of the Loan Agreement dated 10.04.2019. It reads as under:-

"85. Dispute Resolution:

All claims and disputes arising under or relating to this Loan Agreement are to be settled by binding arbitration in the State of Tamil Nadu, specifically Chennai or another location desired by the Lender. The arbitration shall be conducted on a confidential basis and shall be subject to the Arbitration and Conciliation Act, 1996 of India. Any decision or award as a result of any such arbitration proceeding shall be in writing and shall provide an explanation for all conclusions of law and fact and shall include the assessment of costs, expenses, and reasonable attorneys' fees. Any such arbitration shall be conducted by single arbitrator appointed by the Lender. The arbitration proceeds shall include a written record of the arbitration hearing. The parties reserve the right to object to any individual who shall be employed by or affiliated with a competing organization or entity. An award of arbitration may be confirmed in a court of competent jurisdiction."

3. Considering the fact that the dispute between the parties is arbitrable,



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Mr.V.Nallasenapathy, Advocate, Enrollment No.MAH/4304/2021, having

residence at No.3B, Pushkar Pradhan, 40, East Avenue Road, Korattur, Chennai - 600 050 (Mobile No.9841527190) is appointed as an arbitrator to enter upon reference and adjudicate/resolve the *inter se* dispute between the parties.

4. The learned Arbitrator appointed herein, shall after issuing notice to the parties and upon hearing them, endeavour to complete the arbitral proceedings and pass an award strictly in accordance with the provisions of the Arbitration and Conciliation Act, 1996, as expeditiously as possible, preferably within a period of twelve months after the date of completion of pleadings under Sub-Section 4 to Section 23 as is contemplated in Section 29-A of the Arbitration and Conciliation Act, 1996, without getting influenced by any of the observations made by this Court in this order.

5. The learned Arbitrator appointed herein shall be paid fees and other incidental charges as may be fixed with the consent of parties or in accordance with the provisions of the Arbitration and Conciliation Act, 1996, and the same shall be borne by the parties equally. In case, the respondents remain *ex parte*, the petitioner shall pay the entire fee and other incidental charges to the



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Arbitrator and later recover the same from the respondents.

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6. This Original Petition is allowed accordingly, leaving the parties to bear their own costs.

7. Since this Court has appointed the Arbitrator, it is open to the petitioner as well as the respondents to seek other reliefs under Section 17 of the Arbitration and Conciliation Act, 1996, before the learned Arbitrator.

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Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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C.SARAVANAN, J.

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