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Arb.O.P.(Com.Div.) No.155 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2023

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THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.155 of 2023

Same Deutz Fahr India Private Limited,
represented by P.Ramesh

... Petitioner

Versus

Priyanka Mishra

... Respondent

Prayer: Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint a Sole Arbitrator to adjudicate the dispute between the petitioner and the respondent and to direct the respondent to pay the costs of this petition.

For Petitioner : Ms.Prapti Mehta

For Respondent : No appearance

ORDER

This petition has been filed under Section 11 of the Arbitration and Conciliation Act seeking for appointment of an Arbitrator by this Court.



2.The petitioner is a Manufacturer and the respondent is its dealer. A

Dealership Agreement dated 10.01.2019 has been entered into between the parties to the dispute. There seems to be a dispute arising out of the same. There is an Arbitration Clause available in the Dealership Agreement dated 10.01.2019, which is extracted hereunder:

'DISPUTE RESOLUTION

Any and all disputes, which may arise under, out of, in connection with, or in relation to this Agreement, including those as to the application and/or interpretation of this Agreement, or the legal relations and/or mutual rights, performance and obligations of the parties hereunder, shall be resolved through negotiations by the authorised officers or representatives of the Company and the Dealer before seeking outside resolution of the dispute. Those disputes not resolved by negotiations, within thirty (30) days from the date of notification of the disputes, shall be resolved through arbitration by a sole arbitrator to be appointed by the Director of the Company, who may be authorised by the Board of Directors of the Company in this regard. The arbitration proceedings shall be held at Chennai in accordance with the provisions of the Arbitration and Conciliation Act, 1996 as in force in India or any statutory modifications or reenactments



thereof. The Courts at Ranipet/Vellore alone shall have exclusive jurisdiction in all matters arising out of this agreement'.

3.The petitioner has also invoked Arbitration in accordance with the Arbitration Clause by sending a notice to the respondent on 05.12.2022. A reply has also been sent by the respondent to the said Notice on 10.01.2023. Since there has been no consensus between the parties to the dispute a rejoinder has also been sent by the petitioner on 24.01.2023 to the reply dated 10.01.2023.

4.Since there has been no consensus between the parties with regard to the name of the Arbitrator, this petition has been filed by the petitioner under Section 11 of the Arbitration and Conciliation Act seeking for appointment of an Arbitrator by this Court.

5.The respondent has also been duly served through substituted service since the notice sent earlier in this petition was returned un-served. The name of the respondent is also printed in the cause list today.



6.Since there is a valid Arbitration Agreement between the parties to the dispute and the petitioner has also invoked Arbitration in accordance with the Arbitration Agreement by sending a notice to the respondent on 05.12.2022 and there has been no consensus between the parties with regard to the name of the Arbitrator, this Court will have to necessarily appoint an Arbitrator under Section 11 of the Arbitration and Conciliation Act.

7.For the foregoing reasons, this Arbitration Original Petition is allowed as prayed for by issuing the following directions:

(a)This Court appoints Hon'ble Mr.Justice F.M.Ibrahim Kalifulla, Former Judge of the Supreme Court, having Office at No.22, Sivananda Road, Gill Nagar Extension, Choolaimedu, Chennai - 600 094 (Mobile No.7550048928) as the Sole Arbitrator to decide the dispute between the petitioner and the respondent arising out of the Dealership Agreement dated 10.01.2019, on merits and in accordance with law.

(b)The Arbitrator shall be paid his remuneration / fees as per the schedule agreed upon by the parties to the dispute.



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(c)Both the parties shall equally share the Arbitrator's fees.

(d)The Arbitrator shall conduct the arbitration in accordance with the provisions of the Arbitration and Conciliation Act, 1996 and shall complete the arbitration within the specified time as prescribed under the said Act.

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Index:Yes/No

Speaking/Non-speaking orders



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ABDUL QUDDHOSE, J.

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