



Arb.O.P.(Com.Div.) No.200 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 18.08.2023

CORAM

THE HON'BLE Mr. JUSTICE ABDUL QUDDHOSE

Arb.O.P (Com.Div.) No.200 of 2023

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

... Petitioner

Versus

1.M/s.Jambeshwar Tractor Automobile ,
Near Mankar Hospital,
Madhya Pradesh.

2.Abhishek Bishnoi

3.Balram Bishnoi

... Respondents

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 respondents and to direct the respondents to pay the cost of this petition.

For Petitioner : Ms.Prapti Mehta
for M/s.Surana & Surana

For Respondents : No appearance



ORDER

WEB COPY 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 respondents are its dealers. 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 respondents on 09.12.2022. 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.

4.The respondents have also been duly served through substituted service, since the notice sent earlier in this petition was returned "unserved". The name of the respondents is also printed in the cause list today.



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5.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 respondents on 09.12.2022 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.

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

(a)This Court appoints Mr.K.M.Aasim Shehzad, having Office at BFS Legal, No.47/1, Rams Surabi Apartments, 1st Main Road, R.A.Puram, Chennai – 600 028 (Mobile 9841026786) Advocate as the Sole Arbitrator to decide the dispute between the petitioner and the respondents arising out of the Dealership Agreement dated 03.01.2018, on merits and in accordance with law.



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(b)The Arbitrator shall be paid his remuneration / fees in accordance with the 4th Schedule of the Arbitration and Conciliation Act, 1996.

(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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