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Arb.O.P.(Com.Div.)Nos.190 and 433 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)Nos.190 and 433 of 2023

Arb.O.P.(Com.Div.)No.190 of 2023

M/s.Evolve Business Ventures
A Proprietary concern
Represented by its Proprietor
Mrs.Mamta Lunked,
No.18/1, S.Kariappa Road,
Model House Cross Road,
Basavanagudi, Bangalore - 560 004.

... Petitioner

Vs.

The Airport Director,
The Airport Authority of India,
Chennai Airport, Chennai - 600 016.

... Respondent

Prayer in Arb.O.P.(Com.Div.)No.190 of 2023: Original Petition is filed under Section 34(2)(b) of the Arbitration and Conciliation Act, 1996, praying to allow the present original petition and partially set aside the Arbitral Award dated 16.02.2023 as modified vide order dated 26.03.2023 passed by the Sole Arbitrator, to the extent that it has decided Issue Nos.5, 6, 7, 8, 14, 16 and 17 against the petitioner herein and costs of the arbitral proceedings have not been granted in favour of the petitioner herein and award costs of the present proceedings in favour of the petitioner.



Arb.O.P.(Com.Div.)Nos.190 and 433 of 2023

Arb.O.P.(Com.Div.)No.433 of 2023

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The Airport Authority of India,
Represented by the Joint General Manager (Commercial),
Chennai Airport, Chennai - 600 016. ... Petitioner

Vs.

M/s.Evolve Business Ventures
Represented by its Proprietor
Mrs.Mamta Lunked,
No.18/1, S.Kariappa Road,
Basavangudi, Bangalore - 560 004. ... Respondent

Prayer in Arb.O.P.(Com.Div.)No.433 of 2023: Original Petition is filed under Section 34(2)(b)(ii) and Section 34(2)(b)(iii) of the Arbitration and Conciliation Act, 1996, praying to set aside the impugned amended Arbitration Award dated 27.03.2023 arising out of Master Concessionaire Agreement dated 09.11.2018 and to direct the respondent to pay the costs.

Arb.O.P.(Com.Div.)No.190 of 2023

For Petitioner	: Mr.V.P.Raman
For Respondent	: Mr.R.Shankaranarayanan Senior Counsel for Mr.Ramaswamy Meyyappan

Arb.O.P.(Com.Div.)No.433 of 2023

For Petitioner	: Mr.R.Shankaranarayanan Senior Counsel for Mr.Ramaswamy Meyyappan
For Respondent	: Mr.V.P.Raman



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COMMON ORDER

Arb.O.P.(Com.Div.)No.190 of 2023 has been filed by M/s.Evolve Business Ventures to set aside the Arbitral Award dated 16.02.2023 of the Sole Arbitrator as modified on 26.03.2023. By Order dated 26.03.2023, Issue Nos.5, 6, 7, 8, 14, 16 and 17 have been answered against the petitioner herein. The costs of the arbitral proceedings have not been awarded to the petitioner herein and to award costs of the present proceedings in favour of the petitioner.

2. Arb.O.P.(Com.Div.)No.433 of 2023 has been filed by the Airport Authority of India to set aside the impugned amended Arbitration Award dated 27.03.2023 arising out of Master Concessionaire Agreement dated 09.11.2018 and to direct the respondent to pay the costs.

3. The learned Senior Counsel for the petitioner in Arb.O.P.(Com.Div.)No.433 of 2023/respondent in Arb.O.P.(Com.Div.)No.190 of 2023 and the learned counsel for the petitioner in Arb.O.P.(Com.Div.)No.190 of 2023/respondent in Arb.O.P.(Com.Div.)No.433 of 2023 have stated that the parties have arrived at a consensus for setting aside the Arbitral Awards for *de novo* consideration of the dispute from the stage of arguments.



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4. Both the counsels have consented for appointing Hon'ble Mr.Justice.V.Ramasubramanian (Retd.), Former Judge of the Hon'ble Supreme Court of India as a sole arbitrator to resolve the dispute between the parties.

5. Recording the request, the Arbitral Award dated 16.02.2023 as modified on 26.03.2023 stands set aside for fresh consideration. Mr.Justice V.Ramasubramanian (Retd.), Former Judge of the Hon'ble Supreme Court of India, is appointed as the Sole Arbitrator to enter upon reference and adjudicate/resolve the dispute between the parties.

6. The learned Arbitrator shall after issuing notice to the parties and upon hearing them and consider the evidence already on record, endeavour to pass a final 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.



7. 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, any of the party chooses to remain *ex parte*, the other party shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the absenting/defaulting party.

8. These Original Petitions are disposed of accordingly, leaving the parties to bear their own costs.

9. Since this Court has appointed the Arbitrator, it is open to the petitioner as well as the respondent to seek other reliefs both under Section 16, Section 17 of the Arbitration and Conciliation Act, 1996, before the learned Arbitrator.

23.11.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes/No

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