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ARB.O.P.(Com.Div) No.230 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com.Div) No.230 of 2023

Same Deutz Fahr India Private Limited
Represented by Mr.P. Ramesh,
No.72/72M/73-77, SIPCOT Industrial Complex,
Ranipet – 632 403, Tamil Nadu.

... Petitioner

Vs.

Mrs.Jayanti Adesh Jain,
Proprietor, M/s. Kanchan Plastics and Agrotech
Near New Bus Stand, Bypass Road,
Ganjbasoda, District – Vidisha,
Madhya Pradesh – 464 221.

Also at:

Near Ashish Petrol Pump Bareth Road,
Ganj Basoda, District – Vidisha,
Madhya Pradesh – 464 221.

... Respondent

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



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For petitioner : Ms.Prapti Mehta

For respondent : No appearance

ORDER

This Petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking for appointment of an Arbitrator.

2. The petitioner is a Manufacturer and the respondent is its Dealer. A Dealership Agreement dated 10.01.2019 was entered into between the petitioner and the respondent. There seems to be a dispute arising out of the said Dealership Agreement between the petitioner and the respondent. According to the petitioner, certain sums of money are due and payable by the respondent to the petitioner. In view of the dispute/differences arising out of the Dealership Agreement dated 10.01.2019, the petitioner desires to initiate arbitration in accordance with the Arbitration Clause contained in the agreement. The Arbitration Clause contained in the Dealership Agreement dated 10.01.2019 is extracted hereunder :

“J. Dispute Resolution

*Any and all disputes, which may arise under, out of,
in connection with, or in relation to this Agreement,*



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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 & Conciliation Act, 1996 as in force in India or any statutory modification 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 sent a notice to the respondent on 01.04.2021, calling upon the respondent to pay the money due and payable to them. Thereafter, the petitioner has also invoked arbitration by sending a notice on 05.12.2022 to the respondent. Both the legal notice dated 01.04.2021, as well the arbitration invocation notice dated



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05.12.2022 has not been responded. In such circumstances, this petition has been filed seeking for appointment of an Arbitrator.

4. Notice was sent to the respondent in this petition and he has been duly served. His name is also printed in the cause list today. Despite receipt of the same, the respondent has not chosen to either send a reply or suggest a name of an Arbitrator. In view of the Arbitration Agreement available in the Dealership Agreement dated 10.01.2019, this petition filed under Section 11 for appointment of an Arbitrator is maintainable. Since, the respondent has not responded to the notices sent by the petitioner, this Court has to necessarily appoint an Arbitrator, who will have to decide the dispute/differences between the parties on merits and in accordance with law.

5. For the foregoing reasons and in view of the arbitration agreement available under the Dealership Agreement, this Court appoints Mr.Sanjay Pinto, Advocate, as the Sole Arbitrator, to decide the dispute between the petitioner and the respondent. Accordingly, this Arbitration Original Petition is allowed as prayed for, by issuing the following



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directions:-

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(a) This Court appoints Mr.Sanjay Pinto, Advocate, who is having office at No.5, Manasarovar, 1st Floor, 60, C.P. Ramaswamy Road, Alwarpet, Chennai – 600 018, Mobile Nos.:9840091547 & 9884091547, as a sole Arbitrator, to decide the dispute between the petitioner and the respondent arising out of the Dealership Agreement, dated 10.01.2019.

(b) The Arbitrator shall be paid his remuneration/fees in accordance with the IV 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 order / Non speaking order
Sni



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ABDUL QUDDHOSE, J.

Sni

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