



Arb.O.P.(Com.Div.)No.277 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.12.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.277 of 2023

Tata Capital Financial Services Limited,
Represented by its Authorized Representative,
Mr.Noyal James,
registered office at
11th Floor, Tower A, Peninsula Business Park,
Ganpatrao Kadam Marg, Lower Parel,
Mumbai – 400 013.
Branch office at,
1st Floor, Centennial Square,
6A, Dr.Ambedkar Salai, Kodambakkam,
Chennai – 600 024

... Petitioner

Vs.

Go Green Motors India Private Limited,
Plot No.-20, 21, Kodapur Road,
Gachibowli “X” Roads,
Hyderabad – 500 032.

... Respondent

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint a sole Arbitrator to adjudicate upon the dispute arisen between the Petitioner and the Respondent.



WEB COPY



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For Petitioner : M/s.Abitha Banu
For Respondent : Pvt. Notice – Left without instructions
Court Notice – Returned
Paper Publication effected

ORDER

This petition has been filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint a sole Arbitrator to adjudicate upon the dispute arisen between the Petitioner and the Respondent.

2. The respondent has availed a loan from the petitioner and therefore appears to be defaulted by the respondent. The petitioner has also recalled the agreements on various dates and it appears that the respondent is in arrears of Rs.20,00,000/-. Notice that was earlier ordered by this Court on the respondent has remains “unserved” and therefore liberty was given to the petitioner to effect paper publication.

3. In this case, a substituted service of notice through paper publication was ordered on 29.09.2023. The time for effecting the paper publication was extended by an order dated 02.11.2023, pursuant to which, the petitioner has also effected paper publication on 07.11.2023. Despite the same, the



respondent is not come forward to appear either in person or through a counsel.

There is a deemed service of notice. Considering the fact that the respondent has failed to respond the notice issued under Section 21 and to the notice ordered in this case it has to be construed that the respondent has forfeited their rights.

4. Considering the same, **Hon'ble Mr.Justice P.Kalaiyarasan (Retd), Former Judge of this Court, (Mobile No.:9942421667)** residing at **Plot No.64, 3rd cross street, CBI Colony, Kandanchavadi, Chennai – 96**, is appointed as an Arbitrator to resolve the dispute between the parties.

5. 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.



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6. 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 respondent remain *ex parte*, the petitioner shall pay the entire fee and other incidental charges to the Arbitrator and later recover the same from the respondent.

7. The parties are at liberty to workout the venue for Arbitration at Chennai.

8. The Original Petition is allowed with the above observations, leaving the parties to bear their own costs.

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

21.12.2023

Index : Yes/No

Internet : Yes/No

Neutral Citation : Yes/No

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C.SARAVANAN, J.

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