



Arb.O.P.(Com. Div.) No.237 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : **13.07.2023**

CORAM

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com. Div.) No.237 of 2023

M/s.Grobest Feeds Corporation (India) Pvt. Ltd.,
Represented by its authorised signatory,
Mr.Manikandan M.
Senior Executive - Administration. ... Petitioner
Vs.

M/s.Bakyashwri Sea Food Private Limited,
Represented by its Managing Director Mr.Suman Manna,
Managing Director. ... Respondent

PRAYER: Petition filed under Section 11 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 cost.

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.



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2. There seems to be a dispute between the petitioner who is a supplier and the respondent who is a purchaser, under an agreement for purchase of goods dated 29.03.2022. According to the petitioner, certain sums of money are still due and payable by the respondent to them. They have also raised a demand to the respondent by their notices dated 20.02.2023 and 25.02.2023. The contract dated 29.03.2022 contains an arbitration clause which is extracted hereunder:

"13. Arbitration: All disputes arising out of or under this Agreement shall be resolved through Arbitration by the sole arbitrator to be appointed by the Director of Grobest, in accordance with the Indian Arbitration and Conciliation Act, 1996 or any statutory amendments thereof. The venue and seat of arbitration shall be only in Chennai, India. The arbitration proceedings shall be conducted in English."

3. The petitioner has also invoked arbitration in accordance with the aforementioned arbitration clause by issuing a notice to the respondent on 27.03.2023. The respondent has also acknowledged the same, as seen from



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the Postal Department's track status. Despite the receipt of the said notice, the respondent has chosen not to send any reply and they have also not agreed to the appointment of the arbitrator by the petitioner. Admittedly, there has been no consensus between the parties for the appointment of the named arbitrator.

4. Only under those circumstances, this petition has been filed under Section 11 of the Arbitration and Conciliation Act, 1996, seeking for appointment of an arbitrator by this Court. Since there is a valid arbitration agreement as extracted supra and the petitioner has already invoked arbitration by issuing notice to the respondent on 27.03.2023 and the respondent has neither replied to the said notice nor has agreed to the arbitrators named by the petitioner. Therefore, necessarily, this Court will have to appoint an arbitrator to decide the dispute between the parties arising out of the agreement dated 29.03.2022.

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



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(a) This Court appoints Honourable Mr. Justice V. Bharathidasan (Retd.), a former Judge of this Court, having office at No.22, (L-45), 2nd main road, Kamaraj Nagar, Thiruvaniyur, Chennai, as a sole Arbitrator to decide the dispute between the petitioner and the respondent arising out of the agreement dated 29.03.2022.

(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 Order : Yes / No
Neutral Citation Case: Yes / No
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ABDUL QUDDHOSE. J.,

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