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ARB.O.P.(Com.Div) No.268 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 08.09.2023

CORAM:

THE HON'BLE MR. JUSTICE ABDUL QUDDHOSE

Arb.O.P.(Com.Div) No.268 of 2023

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

... Petitioner

Vs.

1.M/s.Dharti Agrotech,
Vasundhara Complex, Bhiloda Cross Road,
A/p. Idar, Taluka-Idar,
District – Sabarkantha,
Pin Code – 383 430.
Gujarat.

2.Mr.Shahidbhai Abdulbhai Malpara,
Parnter, M/s.Dharti Agrotech,
Vasundhara Complex, Bhiloda Cross Road,
A/p. Idar, Taluka-Idar,
District – Sabarkantha,
Pin Code – 383 430.
Gujarat.

Also at,
No.4, 5, Opposite Reliance Petrol Pump,
Godhra Highway, NH 8, Taluka-Lunavada,
Dist. Mahisagar – 389 230,
Gujarat.



ARB.O.P.(Com.Div) No.268 of 2023

3. Mrs. Jarinaben Sharifuddin Malpara,
Partner, M/s. Dharti Agrotech,
Vasundhara Complex, Bhiloda Cross Road,
A/p. Idar, Taluka-Idar,
District – Sabarkantha,
Pin Code – 383 430.
Gujarat.

Also at,
Office No.4, 5, Opposite Reliance Petrol Pump,
Godhra Highway, NH 8, Taluka-Lunavada,
Dist. Mahisagar – 389 230,
Gujarat.

Also at
Aswamegh Complex, Shamlaji Road,
Ganeshpur, Arravalli District, Gujarat,
Modasa, Pin – 383315.

... Respondents

Prayer : Arbitration Original Petition (Commercial Division) filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying 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 : Mr. P. Giridharan

ORDER

This petition has been filed under Section 11(6) of the Arbitration and Conciliation Act (hereinafter referred to as 'the Act'), seeking for appointment of an Arbitrator by this Court.



ARB.O.P.(Com.Div) No.268 of 2023

2. The petitioner is the Manufacturer and the first respondent is its

Dealer. The respondents 2 & 3 are the partners of the first respondent. A Dealership Agreement has been entered into between the petitioner and the respondents on 10.01.2019. 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:-

“14. J. 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 & Conciliation Act, 1996 as in force in India or any statutory modifications or reenactments thereof. The courts at Ranipet



ARB.O.P.(Com.Div) No.268 of 2023

WEB COPY

/ Vellore alone shall have exclusive jurisdiction in all matters arising out of this Agreement.”

3. In accordance with the arbitration clause, the petitioner has invoked arbitration by issuing notice to the respondents on 29.12.2022. The same has been returned, as seen from the tracking details from www.indiapost.gov.in. Since there was no consensus between the parties with regard to the name of the Arbitrator, the petitioner has filed this petition seeking for appointment of an Arbitrator by this Court.

4. The respondents have entered appearance through a learned counsel, who would submit on instructions, that since there is a valid arbitration clause available in the Dealership Agreement dated 10.01.2019, which is the subject matter of dispute, the respondents are agreeable for appointment of an Arbitrator by this Court.

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

(a) This Court appoints Mr.Niranjan Rajagopalan, Advocate,
having Office at III-A, High Court Chambers, Madras High



ARB.O.P.(Com.Div) No.268 of 2023

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Court, Chennai – 600 104, Mobile No.: 9381803616, as the Sole Arbitrator to adjudicate the dispute between the petitioner and the respondents arising out of the Dealership Agreement dated 10.01.2019, on merits and in accordance with law.

(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.

08.09.2023

Index: Yes/ No
Speaking/Non-speaking order
Internet: Yes/No
Neutral Citation: Yes/No

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ARB.O.P.(Com.Div) No.268 of 2023

ABDUL QUDDHOSE, J.

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Arb.O.P.(Com.Div) No.268 of 2023

08.09.2023