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IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.10.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.273 of 2023

Same Deutz Fahr India Private Limited,
Represented by Mr.P.Ramesh ... Petitioner

Vs.

Sameerkumar Garg,
Sole Proprietor of M/s.Greenline Autopark ... 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 the dispute between the Petitioner and the Respondent and direct the Respondent to pay the cost of this Petition.

For Petitioner : Ms.Prupti Mehta for M/s.Surana & Surana

For Respondent : Mr.Anurag Bisaria

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ORDER

This petition has been filed by the petitioner under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint an Arbitrator in terms of Dealership Agreement dated 10.01.2019.

2. The aforesaid Dealership Agreement was to remain in force for a period of 12 months/less than 12 months and was to expire on 31.12.2019, which has not been renewed.

3. However, the petitioner and the respondent continued to do business. The respondent appears to have also admitted to the outstanding amount of Rs.98,74,793/- as on 20.01.2021 signed on 16.02.2021 without any objections by the respondent.

4. The petition for appointment of an Arbitrator is opposed by the learned Counsel for the respondent on the ground that the Dealership Agreement dated 10.01.2019 was not renewed. It is further submitted that the Letter/Certificate dated 31.12.2019 merely refers to a Letter of Intent dated 30.04.2018 and Letter of Authorization dated 28.11.2018 which did not contain any Arbitration Clause.

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5. Under these circumstances, it is submitted that there is no scope for inferring the existence of an Arbitration Clause although there could be a dispute between the petitioner and the respondent regarding the amount due and payable by the petitioner and the respondent.

6. By way of rejoinder, the learned Counsel for the petitioner would submit that the terms of Letter of Intent and the Letter of Authorization dated 30.04.2018 and 28.11.2018 were incorporated in the Dealership Agreement dated 10.01.2019 and the arrangement was continued and therefore the dispute between the petitioner and the respondent is arbitrable.

7. I have considered the arguments advanced by the learned Counsel for the petitioner and the learned Counsel for the respondent.

8. The Dealership Agreement is categorical. It is to be in force for a period of 11 months with effect from 10.01.2019 up to 31.12.2019 and it does not renewed in writing.

9. Therefore, it cannot be implied/inferred that the Dealership agreement was renewed although the parties continued to carry on the business thereafter.

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10. The Letter/Certificate dated 31.12.2019 also refers a Letter of Intent dated 30.04.2018. There is no Arbitration Clause in the said Letter of Intent dated 30.04.2018. Similarly, Letter of Authorization dated 28.11.2018 also did not contemplate any clause for resolving the dispute through Arbitration.

11. Under these circumstances, the Letter/Certificate of the petitioner dated 30.12.2019, the date on which, the Dealership Agreement come to an end cannot be consented/conferred continued Dealership Agreement dated 10.01.2019 unless, there was a specific clause for resolving the dispute through Arbitration. Hence, Court is not inclined to pass any order for appointing the Arbitrator.

12. Therefore, this Petition filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, has to fail and accordingly, this Petition stands dismissed leaving the parties to bear their own costs.

16.10.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
Neutral Citation : Yes/No

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C.SARAVANAN, J.

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