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Arb.O.P(Com.Div.)No.308 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.11.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.308 of 2023

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

... Petitioner

Vs.

1.M/s.Power Origins Private Limited

2.Sujatha Sankaran

3.Murugesan Kathiravan

... Respondents

Prayer: Original Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996, praying to appoint an Arbitrator to adjudicate the dispute between the Petitioner and the Respondents and to direct the Respondents to pay cost of this petition.

For Petitioner : Ms.Prapti Mehta
for M/s.Surana and Surana

For Respondents : Mr.K.Sathyabal



ORDER

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The dispute between the petitioner and the respondents is arbitrable in terms of a Dealership Agreement dated 10.01.2019.

2. Relevant Clause relating to arbitration reads as under:-

"14. Miscellaneous

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

3. This petition is opposed by the learned counsel for the respondents on the ground that the demand of the petitioner is for the period prior to the Dealership Agreement dated 10.01.2019 and for the supplies effected thereafter.



4. It is therefore submitted that there is no scope for referring the parties to arbitration.

5. In my view, the objection of the respondents is not sustainable.

6. Considering the fact that the parties have signed an Agreement for dealership on 10.01.2019, although the said Agreement is valid for the period between 10.01.2019 and 31.12.2019, the fact indicates that there are dues for the supplies made by the petitioner to the respondents during the aforesaid period.

7. Considering the above, Court is inclined to allow this Original Petition by appointing **Mr.Thriyambak J.Kannan, Advocate, Enrollment No.MH/156/2005 residing at Briley-1, 8th Floor, No.30, Ethiraj Salai, Egmore, Chennai - 600 008, (Mobile No.98846 24563)**, as an arbitrator to enter upon reference and adjudicate/resolve the *inter se* dispute between the parties.



8. 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.

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

10. This Original Petition is allowed accordingly, leaving the parties to bear their own costs.



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11. Since this Court has appointed the Arbitrator, it is open to the petitioner as well as the respondents to seek other reliefs both under Section 16, Section 17 of the Arbitration and Conciliation Act, 1996, before the learned Arbitrator.

12. All the issues are left open to be canvassed by the parties before the learned Arbitrator including the preliminary objection regarding maintainability of the claim.

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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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