



WEB COPY



Arb.O.P(Com.Div.)No.538 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.12.2023

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.)No.538 of 2023

M/s.Tata Capital Financial Services Limited,
having its registered office at 11th Floor, Tower-A,
Peninsula Business Park, Ganpatrao Kadam Marg,
Lower Parel, Mumbai – 400 013.
Having one its branch office at:
1st Floor, Centennial Square, No.6,
Dr Ambedkar Salai, Kodambakkam,
Chennai – 600 024.
Represented by its Authorized Signatory/Power of Attorney
Mr.Noyal James. ... Petitioner

Vs.

M/s.Sri Amman Auto Traders,
Represented by its Partners,
Mr.A.Velu and Mrs.V.Thilagam,
No.4B/8, Kalarampatty Main Road,
Salem, Tamil Nadu – 636 015. ... 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 differences and disputes between the parties under the Term Loan Agreement dated 29.12.2020.



WEB COPY



Arb.O.P(Com.Div.)No.538 of 2023

For Petitioner : Mr.M.Arunachalam
For Respondent : No Appearance

ORDER

There is no representation on behalf of the respondent, despite service of notice and the name being printed in the Cause List.

2. This petition has been filed by the petitioner for appointing an arbitrator under Section 11(6) of the Arbitration and Conciliation Act, 1996.

3. The petitioner has also issued a Section 21 notice on 19.07.2022 under the Arbitration and Conciliation Act, 1996. The respondent has not responded to the same. Thus, the respondent has forfeited the rights to appoint an Arbitrator.

4. The dispute between the petitioner and the respondent is arbitrable interms of Term Loan Agreement dated 29.12.2020. Relevant Clause reads as under:

“12.Arbitration:

If any dispute, difference or claim arises between any of the Obligors and the Lender in connection with the Facility or as to the interpretation, validity, implementation or effect of the Facility Documents or as to the rights and liabilities of the



WEB COPY

parties under the Facility Documents or alleged breach of the Facility Documents or anything done or omitted to be done pursuant pursuant to the Facility Documents, the same shall be settled by arbitration to be held at the place as mentioned at Serial No.18 of Annexure 1 hereto, in accordance with the Arbitration and Conciliation Act, 1996, or any statutory amendments thereto and shall be referred to a sole arbitrator to be appointed by the Lender. The award of the arbitrator shall be final and binding on all parties concerned. The arbitration proceedings shall be in English language. Cost of arbitration shall be borne by the obligors.

13.Jurisdiction.

Subject to Clause 12 above, the Parties hereto agree that all disputes arising out of and/or in relation to this Agreement, shall be subject to exclusive jurisdiction of the courts/tribunals as set out in Serial No.19 of Annexure 1 hereto. The Lender may, however, in its absolute discretion commence any legal action or proceedings arising out of this Agreement in any other Court, tribunal or other appropriate forum and the Obligors hereby consents to that jurisdiction.”

5. As per annexure to the said agreement, the jurisdiction given is Chennai. The parties are at liberty to workout the venue for Arbitration at Chennai.

6. The Court is therefore inclined to appoint **Mrs.Deepika Murali, Advocate, (Mobile No.:99620 30100) residing at No.6, 1st Floor, Crystal Cove Apartments, MRC Nagar main road, MRC Nagar, Chennai – 600 028,** as an Arbitrator to enter upon reference and adjudicate / resolve the *inter*



se dispute between the parties.

WEB COPY

(i) 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.

(ii) 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 respondent.

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



WEB COPY



Arb.O.P(Com.Div.)No.538 of 2023

8. 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.

07.12.2023

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes/No

jas



WEB COPY



Arb.O.P(Com.Div.)No.538 of 2023

C.SARAVANAN, J.

jas

Arb.O.P.(Com.Div.).No.538 of 2023

07.12.2023