

IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH

Arbitration Case No. 270 of 2022 (O&M)

Date of decision: 1st March, 2023

Altrade Hospitality Pvt. Ltd.

Petitioner

Versus

M/s Pasco Automobiles

Respondent

CORAM: HON'BLE MR. JUSTICE AVNEESH JHINGAN

Present: Mr. Abhishek Sindhwani, Advocate for the petitioner.
Mr. Armaan, Advocate for
Mr. Ambanshu Sahni, Advocate for the respondent.

AVNEESH JHINGAN, J (Oral):

This is a petition under Section 11 of the Arbitration and Conciliation Act, 1996 (for short, 'the Act') for appointment of an arbitrator for adjudication of disputes between the parties.

The brief facts are that the parties entered into a service agreement dated 31.12.2019. Clause 45 of the general terms and conditions provided for dispute resolution through arbitration mechanism. Clause 46 talks about the jurisdiction at Gurgaon. On 8.8.2020, a sole arbitrator was appointed. The appointment was challenged and vide order dated 18.10.2021, the appointment of the arbitrator was declared de jure.

The petitioner served notice dated 17.11.2021 for appointment of the arbitrator. The needful having not been done, the present petition was filed.

Learned counsel for the respondent submits that the service agreement is un-stamped

Learned counsel for the petitioner disputes the said fact.

The contention that the agreement is un-stamped at this stage is of no avail to the respondent in view of the law laid down by the Supreme

Court in *M/s N. N. Global Mercantile Pvt. Ltd.'s case (supra)*. The citation with approval of *M/s Garware Wall Ropes Ltd. v. Coastal Marine Construction and Engineering Ltd., (2019) 9 SCC 209* in *Vidya Drolia and others v. Durga Trading Corporation, (2021) 2 SCC* has been referred to a larger Bench in *M/s N. N. Global Mercantile Ltd.'s case (supra)* but it cannot be lost sight that the reference was made after over-ruling the earlier decision in *M/s SMS Tea Estates Pvt. Ltd.'s case (supra)*.

Needless to say that in case need so arises, the issue of unstamped document relied for arbitration can be raised in the arbitration proceedings at an appropriate stage.

Learned counsel for the parties agree to the appointment of Mr. Subhash Grover, Advocate at Gurgaon as sole arbitrator.

The petition is accordingly disposed of by appointing Mr. Subhash Grover, Advocate, H. No. 186, New Colony, Gurgaon as the sole arbitrator subject to declaration to be made by him under Section 12 of the Act with regard to his independence and impartiality to settle the dispute between the parties.

The arbitrator shall be paid fee in accordance with the Fourth Schedule of the Act, as amended. The fee of the arbitrator will be equally borne by both the parties.

The arbitrator is requested to complete the proceedings as per time limit specified under Section 29A of the Act.

It is clarified that the reference shall be subject to the petitioner's complying with all the requirements of the agreement including the condition of pre-deposit.

Copy of the order be sent to the appointed arbitrator.

[AVNEESH JHINGAN]
JUDGE

1st March, 2023
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1. Whether speaking/ reasoned	:	Yes / No
2. Whether reportable	:	Yes / No