

OCD 31

ORDER SHEET
AP-COM/660/2024
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

PRIME STEELS AND ANR
VS
SCORPIO SEALINGS PVT LTD.

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 7th August, 2024.

Appearance:
Mr. Tanish Greneriwala, Adv.
Mr. Karanjit Sharma, Adv.
. . .for the petitioner.

The Court: Despite service, none appears for the respondent. The affidavit of service filed today be kept on record.

Learned counsel for the petitioner contends that the petitioners supplied goods in terms of purchase orders to the respondent. Such purchase orders are annexed to the present application, dated August 2, 2022 and August 19, 2022 respectively. The corresponding tax invoices raised by the petitioner, which are also annexed to the present application, contain the same arbitration clause which provides that any dispute shall be referred to a sole Arbitrator upon which the arbitration shall proceed in accordance with the Arbitration and Conciliation Act, 1996 and that the seat of arbitration shall be the city of Kolkata.

Learned counsel for the petitioner also argues that the respondent did not raise any demur to such invoices; rather, part payments were made by the

respondent pursuant to the said invoices, which were accepted by the respondent. However, subsequently the cheque issued by the respondent in that regard was dishonored. The present claim of the petitioner is a money claim.

I find from the photocopies of the invoices annexed to the present application that the arbitration clause therein is unambiguous. Since it is the case of the petitioner that the invoices were accepted by the respondent and part payments were made in terms thereof, there was consensus ad idem between the parties with regard to any dispute between the parties relating to the transactions being referable to arbitration.

Since the dispute is also otherwise arbitrable, there cannot be any further impediment in referring the matter to arbitration. As there was no response to the petitioner's notice under Section 21 of the 1996 Act, which is also annexed at Page 18 of the present application, it can reasonably be deduced that there was no consent given by the respondent regarding the appointment of arbitrator.

Accordingly, AP-COM 660 of 2024 is allowed, thereby appointing Mr. Rupak Ghosh, a member of the Bar Library Club, as the sole Arbitrator to resolve the dispute between the parties, subject to a disclosure being obtained from the said learned Arbitrator under Section 12 of the Arbitration and Conciliation Act, 1996. The learned Arbitrator shall fix his own remuneration in consultation with the parties, within the confines of the Arbitration and Conciliation Act, 1996 read with its Schedules.

(SABYASACHI BHATTACHARYYA, J.)