

IN THE HIGH COURT AT CALCUTTA
Ordinary Original Civil Jurisdiction
ORIGINAL SIDE

AP/490/2021

PAM DEVELOPMENTS PRIVATE LIMITED
VS
THE STATE OF WEST BENGAL

BEFORE :
THE HON'BLE JUSTICE SABYASACHI BHATTACHARYYA
Date : 5th August, 2024

Appearance:

Mr. Priyankar Saha, Adv.
Mr. Amritam Mandal, Adv.
...for the petitioner.

Mr. Paritosh Sinha, Adv.
Mr. Arindam Mandal, Adv.
Mrs. Noelle Banerjee, Adv.
Mr. Aishik Chakraborty, Adv.
...for the State.

The Court : The conspectus of the present application under Section 11 of the Arbitration & Conciliation Act, 1996 is limited.

There is a chequered history to the matter. Previously, there was arbitral proceeding and an award was passed in favour of the award-holder/petitioner with regard to two components - for payment for work done and refund of VAT. In respect of the first component, there was a final adjudication. With regard to the adjudication of the amount of VAT to be refunded, there were several litigations in connection with the execution case.

Ultimately, the matter boiled down to the subsistence of an order passed by a learned Single Judge directing the matter to be referred to arbitration with regard to the claim of refund of VAT to the tune of Rs.40 lakhs along with interest.

Learned counsel for the respondent submits that since the erstwhile learned Arbitrator has expressed his unwillingness to act as Arbitrator, the previous objections raised by the respondent to the present application are no longer pressed.

In such view of the matter, since the dispute is otherwise arbitrable, AP/490/2021 is disposed of by appointing Mr. Avra Majumdar, a member of the Bar Association, as the sole Arbitrator to resolve the disputes pertaining to the petitioner's claim of refund of VAT to the tune of Rs.40 lakhs along with interest between the parties, subject to a declaration being obtained from the said learned Arbitrator under Section 12 of the Arbitration & Conciliation Act, 1996. The learned Arbitrator shall fix his own remuneration in consultation with the parties and in consonance with the provisions of the 1996 Act, read with its Schedules.

The erstwhile learned Arbitrator shall forward all the records of the proceedings lying with him to the Arbitrator so appointed within four weeks from the date of communication of this order to the learned erstwhile Arbitrator.

(SABYASACHI BHATTACHARYYA, J.)