

OCD 25

ORDER SHEET
AP-COM/886/2024
IN THE HIGH COURT AT CALCUTTA
ORDINARY ORIGINAL CIVIL JURISDICTION
COMMERCIAL DIVISION

SURANA METALS LIMITED
VS
UNION OF INDIA REPRESENTED BY
GENERAL MANAGER, SOUTH EASTERN RAILWAY KOLKATA

BEFORE:

The Hon'ble JUSTICE SABYASACHI BHATTACHARYYA

Date: 8th October, 2024.

Appearance:
Mr. Laxmi Pat Surana (in person)
...for the petitioner

The Court: Despite service, none appears for the respondent.

The affidavit of service filed today be kept on record.

Mr. Surana, a Director of the petition company, appears in person with the leave of Court and submits that the dispute arises out of a claim on additional and supplementary bills raised by the petitioner. At various points of time, lastly on May 28, 2024, the respondent authority has forwarded the bills but no payments have yet been made to the petitioner.

Mr. Surana further submits that the purchase order is subject to IRS Conditions of Contract, Clause 2900 of which speaks about reference to arbitration. A perusal of the said clause indicates that the contemplation was to refer the dispute to a Gazetted Railway Officer, which is obviously barred by

Section 12, read with the Seventh and Fifth Schedules of the Arbitration and Conciliation Act, 1996. However, since the parties have agreed to arbitration as the chosen alternative dispute redressal mode, there cannot otherwise be any impediment to refer the matter to arbitration.

Insofar as limitation is concerned, since an element of Section 18 of the Limitation Act comes in in view of the bills of the petitioner having been lastly forwarded in May 2024, which tantamounts to acknowledgment of the claim of the petitioner at a *prima facie* level, in the opinion of this Court, the claim of the petitioner is definitely not *ex facie* barred by limitation.

Accordingly, AP-COM/886/2024 is allowed, thereby appointing Mr. Shounak Mukhopadhyay, a member of the Bar Library Club, as the sole arbitrator to resolve the disputes between the parties, subject to a declaration under Section 12 of the Arbitration and Conciliation Act, 1996 Act being obtained from the said learned Arbitrator.

The learned Arbitrator shall fix his own remuneration in consultation with the parties within the framework of the 1996 Act and its Fourth Schedule.

(SABYASACHI BHATTACHARYYA, J.)