

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
ARBITRATION PETITION NO. 152 OF 2024

M/s. Diana Mine Private Limited

...Petitioner

Vs.

M/s. Plazma Technologies Private Limited

...Respondent

Mr. P. G. Chavan for the Petitioner.

CORAM : ARIF S. DOCTOR, J.

DATE : 2ND DECEMBER, 2024

P.C.:-

1. The present Petition is filed under Section 11 of the Arbitration and Conciliation Act 1996 for appointment of an Arbitrator in respect of the disputes and differences between the parties arising out of a Memorandum of Understanding dated 25th February, 2022 entered into between the Petitioner and the Respondent.

2. Learned Counsel for the Petitioner has invited my attention to the said Memorandum of Understanding and pointed out that the same contains an arbitration clause. He has invited my attention to a demand notice dated 10th October, 2023 and the notice invoking arbitration dated 6th February, 2024. He fairly pointed out that vide a letter dated 16th February, 2024 the Respondent has

replied to the notice invoking arbitration, in which various contentions on merit have been taken. He however pointed out that there is no dispute to the existence of the said Memorandum of Understanding or the arbitration clause contained therein.

3. Having due regard to the submissions made and given prima facie I am satisfied that the said Memorandum of Understanding in question contains an arbitration clause and that Respondent though served, has chosen not to appear. Hence, I deem it fit and in the interest of justice to appoint Mr. Rohit Erande, Advocate to act as an Arbitrator in respect of the disputes and differences between the parties on the following terms:-

TERMS OF APPOINTMENT

- (a) Appointment of Arbitrator:** Mr. Rohit Erande, Advocate is hereby nominated to act as a Sole Arbitrator to decide the disputes and differences between the parties.
- (b) Communication to Arbitrator of this order:**
 - (i)** A copy of this order will be communicated to the learned Sole Arbitrator by the Advocates for the Petitioner within one week from the date this order is uploaded.
 - (ii)** The Advocates for the Petitioner will forward an ordinary copy of this order to the learned Sole Arbitrator at the following postal and email addresses:

Arbitrator/s Mr. Rohit Erande

Address 523, Budhwar Peth, Juni
Topkir Galli, Erande Wada, Tal
& District Pune 411002.

Mobile 9823370028

- (c) **Disclosure:** The learned Sole Arbitrator is requested to forward, in hard copy or soft copy (or both), the necessary statement of disclosure under Section 11(8) read with Section 12(1) of the Arbitration Act to Advocates for the parties as soon as possible. The Advocates for the Petitioner will arrange to file the original statement in the Registry. If the statement is forwarded in soft copy, a print out of the covering email is also to be filed in the registry.
- (d) **Appearance before the Arbitrator:** Parties will appear before the learned Sole Arbitrator on such date and at such place as the learned Sole Arbitrator nominates to obtain appropriate directions in regard to fixing a schedule for completing pleadings, etc.
- (e) **Contact/communication information of the parties:** Contact and communication particulars are to be provided by both sides to the learned Sole Arbitrator. The information is to include functional email addresses and mobile numbers.
- (f) **Interim Application/s:**
 - (i) Liberty to the parties to make an interim application or interim applications including (but not limited to) interim applications under Section 17 of the Arbitration & Conciliation Act, 1996 before the learned Sole Arbitrator. Any such application will be decided in such

manner and within such time as the learned Sole Arbitrator deems fit.

(ii) The learned Sole Arbitrator is requested to dispose of all interim applications at the earliest.

(g) **Fees:** The arbitral tribunal's fees shall not be governed by the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.

(h) **Sharing of costs and fees:** All arbitral costs and the fees of the arbitrator will be borne by the two sides in equal shares in the first instance.

(i) **Consent to an extension if thought necessary.** Parties immediately consent to a further extension of up to six months to complete the arbitration should the learned Sole Arbitrator find it necessary.

(j) **Venue and seat of arbitration:** Venue and seat of the arbitration will be in Pune.

4. The Petition is disposed of in these terms. No costs.

(ARIF S. DOCTOR, J.)