

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
ARBITRATION APPLICATION NO. 28 OF 2024

Harman Logistics LLP

...Applicant

Vs.

Hindustan Construction Company Ltd.

...Respondent

Adv. Krupa R. Parekh i/by Mukesh J. Pabari for the Applicant.

CORAM : ARIF S. DOCTOR, J.

DATE : 5TH SEPTEMBER, 2024

P.C.:-

1. This is an Application filed under Section 11 of the Arbitration and Conciliation Act, 1996 for appointment of an Arbitrator. The disputes and differences between the parties arise out of a Letter of Intent dated 22nd July, 2021, issued by the Respondent to the Applicant. The Letter of Intent in clause 19 contains settling of disputes by way of arbitration. The Letter of Intent is duly signed by the Respondent. Thus in my view the same constitutes an agreement under Section 7 of the Arbitration and Conciliation Act, 1996.

2. Learned Counsel for the Applicant invites my attention to a letter dated 20th December, 2023, by which arbitration under the said Letter of Intent has been invoked. Learned Counsel submits that there is no reply to the same. Learned Counsel also places reliance upon Affidavit of Service to prove service of

the present Application upon the Respondent. Despite this, none has appeared on behalf of the Respondent. Hence, today there is dispute raised before me as to the existence/validity of the said agreement or due invocation thereof.

3. Hence, I find that a case for appointment of an Arbitrator has been made out. The Application is therefore allowed in terms of prayer clause (A) which reads thus:-

“A) That his Hon’ble Court be pleased to appoint a Sole Arbitrator and refer the disputes and differences between the Applicants and Respondents under the Agreement dated 22nd July 2021 (annexed at Exhibit “A” Hereto);”

4. Hence, I appoint Mr. Kushal Amin, Advocate of this Court to act as an Arbitrator in respect of the disputes and differences between the parties.

TERMS OF APPOINTMENT

- (a) **Appointment of Arbitrator:** Mr. Kushal Amin 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 Applicant within one week from the date this order is uploaded.
 - (ii) The Advocates for the Applicant will forward an ordinary copy of this order to the learned Sole Arbitrator at the following postal and email addresses:

Arbitrator/s **Mr. Kushal Amin**

Address 302, Oval House, British Hotel
Lane, Fort, Mumbai 400001

Mobile 9820939211

Email advkushalsamin@gmail.com

- (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 Applicant 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) **Section 16 application:** The respondent is at liberty to raise all questions of jurisdiction within the meaning of section 16 of the Arbitration Act. All contentions are left open.
- (g) **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.
 - (h) **Fees:** The arbitral tribunal's fees shall be governed by the Bombay High Court (Fee Payable to Arbitrators) Rules, 2018.
 - (i) **Sharing of costs and fees:** Parties agree that all arbitral costs and the fees of the arbitrator will be borne by the two sides in equal shares in the first instance.
 - (j) **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.
 - (k) **Venue and seat of arbitration.** Parties agree that the venue and seat of the arbitration will be in Mumbai.
5. The application is disposed of in these terms. No costs.

(ARIF S. DOCTOR, J.)