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Arb.O.P.(Com.Div.) No.35 of 2024

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.03.2024

CORAM :

THE HONOURABLE MR.JUSTICE C.SARAVANAN

Arb.O.P.(Com.Div.) No.35 of 2024

M/s.Shahwar Motives Pvt Ltd
A Company Registered under Companies Act,
Represented by its Managing Director Mr.Mehmood Ayaz
No.18 Kasturba Road,
Shantalanagar, Bengaluru – 560 001.

... Petitioner

Vs.

M/s.Nissan Motor India Pvt Ltd.,
Represented by its Director Mr.Rahul Tyagi
Plot No.1A, SIPCOT Industrial Park,
Oragadam, Mattur (PO)
Sriperambadur, Kancheepuram District,
Tamil Nadu – 602105.

... Respondent

Prayer: Petition is filed under Section 11(6) of the Arbitration and Conciliation Act, 1996 to appoint a suitable Arbitral Tribunal to decide the disputes which have been arisen between the petitioner and the respondent.

For Petitioner	: Mr.Athiban Vijay.A.K.
For Respondent	: Mr.D.Bhattacharyya for Mr.M.Velmurugan



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ORDER

This petition has been filed under Section 11(6) of the Arbitration and Conciliation Act for appointment of an Arbitrator in terms of dealership agreement between the petitioner and the respondent signed on 01.04.2018.

2. The facts on record indicates that the petitioner and the respondent had earlier entered into Dealership Agreement in the year 2016 on 14.02.2016 which was renewed in the year 2018 on 01.04.2018.

3. Relevant clause in the Dealership Agreement dated 01.04.2018 relating to resolution of dispute through Arbitration and for jurisdiction read differently from the Dealership Agreement dated 14.02.2016. These clauses are reproduced below:-

TABLE-1

**Dealership Agreement dated 01.04.2018:-****Arbitration :-****Clause 22-12 :-**

All questions, questions, differences. controversies or disputes whatsoever between the parties touching upon responsibilities and obligations of the parties or any matter connected with the terms of this Agreement, whether as to construction or otherwise, shall be referred to arbitration of a sole arbitrator as may be mutually agreed to be appointed as per the provisions of the Indian Arbitration Conciliation Act, 1996. and The provisions of the Indian Arbitration and Conciliation Act, 1996 or any other re-enactments or statutory modifications thereof for the time being in force shall be applicable for settlement of the dispute, controversies or differences. The arbitration proceedings will be on fast tract basis. The decision of the sole arbitrator shall be final and binding on the parties. The place of the arbitration shall be Gurgaon and the language of arbitration shall be English."

Dealership Agreement dated 01.04.2018 :-**Jurisdiction : -****Clause 22-13:-**

Subject to the above clause on arbitration and without in any manner affecting the validity of the arbitration clause , for all purposes in relation to this Agreement, the parties hereto unconditionally and unequivocally agree to submit to the exclusive jurisdiction of the courts at Gurgaon. **No other Courts shall have jurisdiction to deal with any dispute or any matter between the parties arising out of this Agreement.**

Dealership of Agreement dated 14.02.2016 :-**Arbitration :****Clause 22-12:-**

In the event of a dispute arising out of this Agreement is not amicably settled within thirty (30) days, the same shall be referred to arbitration under the provisions of the Arbitration and Conciliation Act, 1996. Each party shall appoint its arbitrator. The two arbitrators will thereafter select a presiding arbitrator who shall presides over the proceedings. The language of the Arbitration shall be English and the venue of arbitration shall be Chennai.

For all purposes in relation to this agreement, the Courts at Chennai alone shall have exclusive jurisdiction. No other Courts shall have jurisdiction to deal with any dispute or any matter between the parties arising out of this Agreement.

4. A reading of the Arbitration clauses in Dealership Agreement dated 01.04.2018 and the jurisdiction clause in Column 1 to Table 1 indicates that the place



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of Arbitration shall be at Gurgaon. That apart, the Court in Gurgaon have been given exclusive jurisdiction to deal with the dispute. This is in departure for the Dealership Agreement dated 14.02.2016.

5. Thus only the Punjab and Haryana High Court alone has the jurisdiction to pass orders under Section 11(6) of the Arbitration and Conciliation Act, 1996.

6. In these circumstances, this petition is directed to be returned for proper presentation by the petitioner before the High Court of Punjab and Haryana.

7. With the above observation, this petition is closed. No costs.

20.03.2024

Index : Yes/No

Internet : Yes/No

Speaking Order/Non-Speaking Order

Neutral Citation : Yes/No

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Note : Registry is directed to return the papers.



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C.SARAVANAN, J.
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